DOCUMENT RESUME

ED 424 179 SO 029 484

AUTHOR	Croddy, Marshall; Degelman, Charles; Hayes, Bill
TITLE	The Challenge of Information. Teacher's Guide [and] Student Guide.
INSTITUTION	Constitutional Rights Foundation, Los Angeles, CA.
SPONS AGENCY	W. M. Keck Foundation, Los Angeles, CA.
ISBN	ISBN-1-886253-09-9; ISBN-1-886253-08-0
PUB DATE	1998-00-00
NOTE	115p.
AVAILABLE FROM	Constitutional Rights Foundation, 601 South Kingsley Drive, Los Angeles, CA 90005; Tel: 213-487-5990.
PUB TYPE	Guides - Classroom - Learner (051) -- Guides - Classroom - Teacher (052)
EDRS PRICE	MF01/PC05 Plus Postage.
DESCRIPTORS	*Civil Law; *Civil Rights; *Constitutional Law; Information Dissemination; Information Industry; Information Policy; *Law Related Education; Libel and Slander; Mass Media Role; Political Science; Privacy; Secondary Education; Social Studies; Teaching Guides
IDENTIFIERS	*United States Constitution

ABSTRACT

The teacher's guide and a students' guide focus on basic constitutional issues dealing with the media and free press. Students examine case studies, tabloid headlines, and various policy issues relating to information dissemination in society. The guide provides recommended lesson sequences incorporating readings, directed discussions, and interactive activities supported by reproducible student handouts. Instructions for utilizing the Civil Conversation feature are included along with instructions for a final assessment activity involving the Internet. The lessons are divided into five chapters with 18 lessons. Chapters include: (1) "A Free Press"; (2) "A Responsible Press"; (3) "Free Press/Fair Trial"; (4) "The Myth Makers"; and (5) "New Frontiers." Fourteen student handouts accompany the lessons. (EH)

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TEACHER'S GUIDE

SO 029 484

This Constitutional Rights Foundation publication is made possible by a generous grant from the W.M. Keck Foundation.

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ISBN: 1-886253-09-9

W.M. KECK FOUNDATION *Series*

The *Challenge of Information* is the second volume in the W.M. Keck Foundation Series, a series of educational publications that will address key challenges facing our democratic and pluralistic republic under the framework of the Constitution and its Bill of Rights.

The W.M. Keck Foundation, one of the nation's largest charitable foundations, primarily supports higher education, medical research, and science. The Foundation also maintains a Southern California Grant Program that provides support in the areas of civic and community services, health care, precollegiate education, and the arts. The Board of Directors of Constitutional Rights Foundation is grateful to the W.M. Keck Foundation for its vision and generosity.

The Challenge of Information
TEACHER'S GUIDE

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Introduction

This Teacher's Guide is designed to provide instructional support for the classroom use of *The Challenge of Information*. The student text is organized into five major chapters.

1. A Free Press covers basic Constitutional issues dealing with the media and free press. It contains an overview of First Amendment doctrines, a case study on *New York Times v. Sullivan*, an overview of issues involving the right to know, and a case study of the press's relationship with the military during the Gulf War.
2. A Responsible Press looks into problems of press irresponsibility. It has a case study on press coverage of Richard Jewell and the Olympic bombing, an overview of advertising's effect on editorial content, a look at tabloids, a study of the Food Lion case (in which news people lied to gain entrance to processing plant), an examination of local news, and proposed reforms to improve accuracy of coverage and press ethics.
3. Free Press-Fair Trial explores issues involving the press and the criminal justice system. It contains an article on problems related to high-profile cases and an examination of whether reporters should have to reveal their sources in court.
4. The Myth Makers encourages students to take a critical look at information. It has articles on urban myths and rumors, conspiracy theories, and paranormal phenomena.
5. New Frontiers explores policy issues of relevance to the Internet. Its one article takes a look at the growth of the Internet and at issues surrounding hate speech and indecency on the Internet.

In addition to expositional readings that provide a substantive focus on issues relating to information, each chapter contains these features:

- Points of Inquiry: Questions about the various texts to promote classroom thought and discussion.
- Civil Conversations: Brief readings that raise issues for structured discussions.
- Information-Age Checklists: Short guides that give students tips on finding and evaluating information.

This Teacher's Guide and *The Challenge of Information* have been made possible by a generous grant from the **W.M. Keck Foundation** as part of a series that focuses on critical challenges facing America and its constitutional democracy as we approach the 21st century.

Overview of the Teacher's Guide

This Teacher's Guide provides recommended lesson sequences incorporating readings, directed discussions, and interactive activities supported by reproducible student handouts. Also included are instructions for utilizing the Civil Conversation feature and instructions for a final assessment activity involving the Internet.

Chapter 1—A Free Press

LESSON 1: INTRODUCTION

OVERVIEW

This lesson introduces students to *The Challenge of Information*. First, students read and discuss the introduction to the text. Then in small groups, students compete to see who can create the longest list of newspapers, magazines, television and radio stations, books, videos, and web pages that they have access to.

OBJECTIVES

Students will be able to:

1. Describe the purpose of *The Challenge of Information* and its educational goals.
2. Identify a range of media.

PREPARATION

Each group of students will need seven sheets of notebook paper.

PROCEDURE

A. **Focus Discussion:** Explain to students that because of today's new media, many people call our time the Information Age. Ask students: "Through what types of media do we get information today?" Hold a brief discussion making sure students name the various types of media, such as books, television, radio, Internet, newspapers, and magazines.

B. **Reading and Discussion:** Ask students to read the introduction to the text on page 4. Write the term "information" on the board and ask students to provide definitions. Then ask students to describe the focus and major sections of the book. Discuss any questions they might have.

C. **Small-Group Activity: Media Race**

Step 1. Divide students into groups of four or five. Write the following headings on the board: "Television Stations," "Radio Stations," "Newspapers," "Magazines," "Web Sites," "Books," and "Videos." Tell students that each group should have seven sheets of paper, each labeled at the top with one of the headings.

Step 2. Tell students that each group will try to list as many entries as possible under each heading. Tell them they can only list an entry that someone in the group has access to (at home, at school, at a library, at a friend's or family member's house, etc.). Inform them that television and radio stations can only be identified by call letters (e.g, KCBS) or by name (e.g., the History Channel)—not by channel number or number on the radio dial.

Step 3. Tell students to begin and that they have 10 minutes.

Step 4. Call time. Ask: "Which group has the most newspapers listed?" Have that group read its list. Repeat this process for each of the seven categories. Declare winners for each category and overall.

Step 5. Debrief the activity by asking: What would your lists have looked like if you lived 100 years ago? How do you think it has changed our lives to have access to all this information?

EXTENSION

Have students keep a Media Log for one day's activities (preferably a non-school day). From the time they wake up to the time they go to bed, students should make a chronological list of every exposure to media—watching television, listening to CDs, playing video games, etc. (Tell students to be as specific as possible, e.g., list a television program and how long they watched.)

Based on their chronological list, they should make a second list showing the different types of media exposure they had—television, radio, CDs, books, newspapers, magazines, Internet, movies, video games, etc. Next to each category, they should figure how much time they spent (e.g., television—4 hours, 35 minutes).

Have the class total all students' time for different categories and calculate averages for each.

LESSON 2: A FREE PRESS

OVERVIEW

This lesson helps students understand how freedom of the press developed and why free expression is important. First, students read and discuss an article tracing the development of freedom of the press in America. Then in small groups, students brainstorm reasons why freedom of expression is important to them and report back to the class their top reasons. The class selects the top 10 reasons.

OBJECTIVES

Students will be able to:

1. Explain the purpose of freedom of the press.
2. State reasons why freedom of expression is important.

PROCEDURE

A. **Focus Discussion:** Ask students: "What does 'freedom of the press' mean?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **A Free Press** on page 6. Conduct a class discussion using the **Points of Inquiry** questions on page 9.

1. What are the two basic methods used by Henry VIII to control the press?
2. What is freedom of the press?
3. Do you think freedom of expression is important? Explain.

C. **Small-Group Activity: Top-Ten List**

Step 1. Explain to students that in many countries there is no such thing as freedom of expression: Authorities limit access to technology (the Internet, copy machines, faxes, etc.) and censor books, movies, song lyrics, etc. Tell them that many things we take for granted are banned elsewhere. Explain that in this activity they are going to brainstorm reasons why freedom of expression is important to them personally.

Step 2. Divide students into groups of three or four. In each group, have students pick a **chairperson** (who leads the discussion), a **recorder** (who writes down their ideas), a **reporter** (who reports back to the class), and (if there are four members) a **responder** (who answers any questions the class may have about the group's report). Tell students to brainstorm reasons for five minutes and then select their top three reasons to report to the class.

Step 3. Allow them five minutes to brainstorm and then tell them to select their top three reasons. When the groups are ready, have each report back. After each group reports, have the class decide on the group's top two reasons by voting. Write these on the board. When all groups have reported, have the class vote on its top ten reasons.

Step 4. Debrief by asking: "Do you think there should be limits on freedom of expression? If so, when?"

LESSON 3: LIMITS ON FREEDOM OF THE PRESS

OVERVIEW

This lesson gives students an overview of the First Amendment's press protections. First, students read and discuss an article on recognized limits to freedom of the press. Then in pairs, students role play college newspaper editors who must decide whether hypothetical stories are protected by the First Amendment and whether to print these stories.

OBJECTIVES

Students will be able to:

1. Describe recognized limits to freedom of the press.
2. Apply recognized limits on freedom of the press to hypothetical situations.

PREPARATION

You will need a copy of **Handout A** for each pair of students.

PROCEDURE

A. **Focus Discussion:** Tell students the First Amendment to the U.S. Constitution guarantees freedom of the press. Ask students: "Does this mean newspapers can print whatever they want?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Limits on Freedom of the Free Press** on page 9. Conduct a class discussion using the **Points of Inquiry** questions on page 12.

1. The article mentions four areas—national security, obscenity, defamation, and privacy—that often cause conflicts with freedom of the press. What are the conflicts in each of these areas?
2. Do you think the press should be limited in these areas? Explain.

3. Do you agree with the court's decision in *Hazelwood v. Kuhlmeier*? Why or why not? What do you think the rule should be for student-run newspapers at public colleges? Explain.

C. Paired Activity: Stop the Presses

Step 1. Explain to students that editors decide what stories go in newspapers. Tell them that aside from evaluating the writing, they must consider the appropriateness of the material and even, as students have read, its legal consequences. Inform them that in this activity they are going to role play editors of a weekly college newspaper and they are going to evaluate three stories.

Step 2. Divide students into pairs. Distribute **Handout A–Stop the Presses!** to each pair. Review the instructions. Make sure students understand that they don't have to print something merely because the First Amendment protects it.

Step 3. When they finish, ask: "What problems might story #1 cause?" After they have listed some problems, ask those pairs who think the First Amendment protects this story to stand. Ask for reasons from those standing and sitting. Then ask to stand those pairs who would print the story. Again ask for reasons.

Step 4. Repeat the process for the remaining stories.

Step 5. Debrief by asking: "Do you think there should be more or fewer limits on freedom of the press? Why?"

LESSON 4: LIBEL AND THE FIRST AMENDMENT

OVERVIEW

In this lesson, students examine how the First Amendment places limits on libel suits. First, students read and discuss an article on the revolution in libel law caused by the U.S. Supreme Court decision in *New York Times v. Sullivan*. Then in small groups, students role play trial judges deciding whether hypothetical plaintiffs are public officials, public figures, or private citizens for the purpose of libel actions.

OBJECTIVES

Students will be able to:

1. State and support an opinion about the U.S. Supreme Court decision in *New York Times v. Sullivan*.
2. Classify hypothetical libel plaintiffs as public officials, public figures, or private citizens.

PREPARATION

You will need a copy of **Handout B** for each group of three students.

PROCEDURE

A. Focus Discussion: Ask students: "What can people do if newspapers print lies about them?" Hold a brief discussion of defamation suits.

B. Reading and Discussion: Ask students to read **Revolution in Libel Law: *New York Times v. Sullivan* and its Aftermath** on page 13. Conduct a class discussion using the Points of Inquiry questions on page 15.

1. What is the purpose of libel suits? How might they stifle free debate?
2. What did the Supreme Court decide in *New York Times v. Sullivan*? Do you agree with this decision? Why or why not?
3. What are "public officials" and "public figures"?

C. Small-Group Activity: Malice

Step 1. Explain that in many libel suits today judges must rule on whether the plaintiff (the person suing) is a public figure or public official. Tell students that they are going to role play judges and make this decision in several hypothetical cases.

Step 2. Divide the class into groups of three. Distribute **Handout B–Malice** to each group and review the instructions.

Step 3. When the groups complete the assignment, ask: "How many groups felt Plaintiff #1 was a public official? A public figure? A private citizen?" Have students discuss their reasons. Repeat this process for each plaintiff. (The following are some questions keyed for each plaintiff: Plaintiff #1: Is Phelps a public official as a third grade teacher? Is he a public figure because he serves as union representative and actively attends PTA meetings? Plaintiff #2: Does Ramirez as head of a department have sufficient responsibility to be considered a public official? Plaintiff #3: Is James the rare instance of an involuntary public figure?

Step 4. Debrief by asking:

- Why, in libel law, does the court treat private individuals different from public officials and public figures?
- Do you think this distinction makes sense? Explain.

LESSON 5: THE PEOPLE'S RIGHT TO KNOW

OVERVIEW

In this lesson, students explore various Supreme Court rulings on the right to know, including cases on prior restraint and the right to access to government. First, students read and discuss an article on the right to know. Then in small groups, students hold a moot court on *The Progressive* case, in which the government sought to stop a magazine from publishing an article on the hydrogen bomb.

OBJECTIVES

Students will be able to:

1. Decide a case of prior restraint.
2. Give reasons for their decision.

PROCEDURE

A. **Focus Discussion:** Ask students: "Is it important for people in a democracy to know what the government is doing?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **The People's Right to Know** on page 15. Conduct a class discussion using the **Points of Inquiry** questions on page 19.

1. Why do you think the Supreme Court has interpreted the First Amendment to ban censorship under most circumstances? In what circumstances, if any, do you think censorship should be allowed?
2. What did the court decide in *Houchins v. KQED*? Do you agree? Why?
3. In your opinion, does the Constitution give the people a "right to know"? Explain.

C. **Small-Group Activity: The Bomb**

Step 1. Remind students that the H-bomb case never reached the Supreme Court. Tell students that people have different opinions on what the court would have decided. Inform students that they are going to hold a moot court and decide the case. Write this question on the board: Should *The Progressive* be allowed to publish the H-bomb story?

Step 2. Divide the class into groups of three. Assign each student in each triad one of three roles: government lawyer, lawyer for *The Progressive*, and Supreme Court justice.

Step 3. Regroup the class so that students can consult with one another while preparing for the moot court. Put government lawyers on one side of the room, lawyers for *The Progressive* on the other, and Supreme Court justices in front. Tell the lawyers to think up their best arguments and the justices to think up questions to ask each side. Tell everyone to refer to the article.

Step 4. Regroup into triads and begin the moot court. Tell government lawyers to present their cases first. Each side will have two

minutes to present. The justice can interrupt to ask questions. After both sides present, have the justices return to their seats in front, discuss the case, and vote. Each justice should individually state his or her opinion on the case.

Step 5. Debrief by asking what were the strongest arguments on each side.

CIVIL CONVERSATION

As an additional activity, conduct a Civil Conversation using the reading on page 17 and the procedures outlined on page 21 of this guide.

LESSON 6: PRESS FREEDOM VS. MILITARY CENSORSHIP

OVERVIEW

In this lesson, students explore the conflict between the military and media over press coverage during wartime and analyze competing press policies. First, students read and discuss a case study of press censorship during the Gulf War. In small groups, students use a rubric to analyze two press policies and decide which should be adopted by the military in wartime.

OBJECTIVES

Students will be able to:

1. Use a rubric to analyze two policies on wartime press coverage.
2. Decide on the best policy and give reasons for their decision.

PROCEDURE

A. Focus Discussion: Ask: "What conflicts might arise between the press and military in a war zone?" Hold a brief discussion.

B. Reading and Discussion: Ask students to read **Press Freedom vs. Military Censorship** on page 20. Conduct a class discussion using the **Points of Inquiry** questions on page 23.

1. Is it possible to carry on a war with a free press? Why or why not?
2. Do you think the press should have access to war zones? Explain.
3. What are the similarities and differences between the two sets of battlefield press rules discussed in the article?

C. Small-Group Activity: Presidential Commission

Step 1. Divide students into groups of three or four.

Step 2. Tell students to imagine that they are members of a commission appointed by the president to recommend press rules in future American wars abroad. Explain that their commission has been presented with two different sets of press rules—the two in the article.

Step 3. Tell them their task is to evaluate the two policies using the GRADE checklist on page 22 and decide which to recommend to the president. Briefly review GRADE.

Step 4. Have each group assign roles: a commission **chairperson** (who leads the discussion), a **recorder** (who writes the group's answers to each GRADE item on a sheet of paper), a **reporter** (who reports the commission's findings to the class), and, if the group has four members, a **responder** (who answers any questions the class may have about the group's findings).

Step 5. When the groups finish, call on reporters from different groups to answer the GRAD items of the GRADE checklist for Policy #1: Press Pool Rules. Then call on reporters to answer the GAD items of the GRADE checklist for Policy #2: Proposed Rules by News Media. Ask which policy the groups favored. Hold a discussion over why they favored one policy over another.

Chapter 2—A Responsible Press

LESSON 7: INQUISITION IN ATLANTA

OVERVIEW

In this lesson, students explore the importance of using reliable sources for news stories. First, students read and discuss a case study on press coverage of the Olympic bombing in Atlanta and a checklist for judging the reliability of sources. Then in a paired activity they check the reliability of sources in hypothetical situations.

OBJECTIVES

Students will be able to:

1. Explain why checking sources is important.
2. Evaluate the reliability of sources in hypothetical situations.

PREPARATION

You will need a copy of **Handout C** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students if they've ever heard stories that turned out to be false. Ask them: "When someone tells you a story, how do you evaluate the truth of the story?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Inquisition in Atlanta** on page 24. Lead a discussion using the Points of Inquiry on page 27.

   1. In your opinion, should the media have reported the news that Richard Jewell was being considered a suspect? Why or why not?
   2. Why do you think journalists failed to investigate the motives of law-enforcement officers who leaked Richard Jewell's name to the media?
   3. Why do you think it is important for journalists to check their sources?

C. Reading and Discussion: Ask students to read Information-Age Checklist SMART on page 27. Discuss any questions they might have.

D. **Paired Activity: Consider the Source**

   Step 1. Divide the class into pairs. Tell students they are going to role play editors and evaluate the sources of news stories that reporters have submitted. Distribute **Handout C—Consider the Source** to each pair. Review the handout and answer any questions students may have.

   Step 2. Monitor group progress as students complete their tasks.

   Step 3. Ask for one pair to report on Story #1. Allow others to comment. Repeat this process for the other two stories. Debrief the activity by asking students why it's important to check sources of stories.

LESSON 8: ADVERTISING AND THE MEDIA

OVERVIEW

In this lesson, students examine the influence of advertising on the media. First, students read and discuss an article on this subject. Then in a small-group activity, they role play editors deciding whether to accept or deny the demands of advertisers in three hypothetical situations.

OBJECTIVES

Students will be able to:

1. Recognize conflicts between editorial content and advertising.
2. Evaluate how editors should respond to demands from advertisers.

PREPARATION

You will need a copy of **Handout D** for each group.

PROCEDURE

A. **Focus Discussion:** Ask students: "How do newspapers, magazines, and television earn money to stay in business?" Hold a brief discussion.

B. **Reading and Discussion:** Have students read **Advertising and the Media** on page 28. Conduct a class discussion using the Points of Inquiry questions on page 30.

1. What is a "firewall" in journalism? What purpose does the firewall serve?
2. How has the relationship between advertising and editorial departments changed in recent years?
3. How might editors and reporters ensure that readers and viewers get the news they want and need, without regard for advertisers?

C. **Small-Group Activity: You Be the Editor**

Step 1. Tell students that in this activity they are going to play the part of editors who must consider the requests of advertisers and publishers.

Step 2. Divide the class into groups of three students. Distribute **Handout D—Should *Millenium* Drop It?** to each group. Review the handout instructions with the class.

Step 3. Monitor students' progress as they complete the activity.

Step 4. Call on a group to explain its decision for Proposal #1. Let other groups comment. Repeat for each proposal.

Step 5. Debrief by asking: "What influence do you think advertisers should have on the content of magazines and newspapers?"

EXTENSION

Ask students to measure the amount of advertising in newspapers and on television news programs.

For television: Ask students to use a watch to measure the overall length of an evening news broadcast. Write down the length of time (minutes and seconds) devoted to advertising and subtract ad time from news time to create a ratio between advertising time and news time.

For newspapers: Ask students measure the column inches of news and advertising. (A column is usually about 2 to 3 inches wide. A column is measured by its length in column inches.) Students should determine how many column inches there are on each page and then record the amount of column inches devoted to news and subtract this from the total number of column inches on a page to determine the column inches of advertising. Students should create a ratio between advertising space and news space.

LESSON 9: TABLOID!

OVERVIEW

In this lesson, students explore tabloid journalism and its relationship to mainstream media. First, students read and discuss an article describing tabloid journalism and issues arising from tabloid practices. Then students take the role of editors who must decide whether or not to use certain tabloid practices.

OBJECTIVES

Students will be able to:

1. Identify various practices of tabloid journalism.
2. State an informed opinion on whether mainstream media should adopt such tabloid practices as creating composite photographs, paying for stories, and focusing on celebrity and sensationalism.

PREPARATION

You will need one copy of **Handout E** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students: "What is a tabloid?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Tabloid!** on page 31. Lead a class discussion using the Points of Inquiry questions on page 34.

1. What are some tabloid practices that critics think are unethical?
2. Why do you think that mainstream journalists often consider tabloids to be "sleazy," or illegitimate?
3. List two recent news stories where mainstream journalists were accused of resorting to tabloid practices.
4. In your opinion, do you think mainstream journalists should use tabloid methods? Explain.

C. **Small-Group Activity: Tabloid or Not Tabloid?**

Step 1. Explain to students that in this activity they are going to take the role of newspaper editors who must decide how to cover a series of news stories.

Step 2. Divide the class into groups of three to five students. Distribute **Handout E—Tabloid or Not Tabloid?** to each group. Review the activity instructions with students and monitor student progress as they complete the activity.

Step 3. Call on one group to give its decision and reasons for Editorial Decision #1. Let other students comment. Repeat for the other decisions.

Step 4. Debrief the activity by asking: "How do tabloid practices affect the credibility of the press?

LESSON 10: UNDERCOVER: ABC GOES LION HUNTING

OVERVIEW

In this lesson, students examine undercover journalism. First, students read and discuss a case study of a controversial undercover investigation. Then students role play advisers to the governor who must recommend whether the governor should support proposed legislation designed to limit undercover journalistic practices.

OBJECTIVES

Students will be able to:

1. Analyze reasons for and against undercover journalism.
2. Decide whether to support hypothetical legislation limiting undercover journalism.

PREPARATION

You will need one copy of **Handout F** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students: "Have you ever seen a television a program where reporters went undercover to get the story? Do you think this is a good way for journalists to get a story?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Undercover: ABC Goes Lion Hunting** on page 34. Hold a class discussion using the Points of Inquiry questions on page 38.

1. What was the case about between Food Lion and ABC's "Prime Time Live"?
2. Do you think Food Lion should have sued for libel? Explain.
3. Do you think ABC should pay punitive damages for what it did? Explain.
4. When, if ever, do you think undercover journalism is justified? Explain.

C. **Small-Group Activity: Limiting Undercover Journalism**

Step 1. Tell students that they are going to role play advisers to the governor who must recommend whether or not the governor should support proposed legislation to put limits on undercover journalistic practices. Divide the class into groups of three to five students.

Step 2. Distribute **Handout F—Limiting Undercover Journalism** to each group. Review the handout instructions with the class and monitor students' progress as they complete the activity.

Step 3. Ask how many advisers recommend that the governor support Proposal #1. Ask for their reasons. Ask for the reasons of those who oppose the measure. Hold a discussion. Repeat with Proposal #2.

Step 4. Debrief the activity by asking if students changed their minds about limiting undercover journalism. Discuss the reasons for their decision.

LESSON 11: NEGATIVE LOCAL NEWS: IF IT BLEEDS, IT LEADS

OVERVIEW

In this lesson, students examine issues surrounding negative local news broadcasts. First, students read and discuss an article on the content and impact of local television news coverage. Next, in small groups, students play the role of editors who must choose and prioritize news stories.

OBJECTIVES

Students will be able to:

1. Decide from a list which news stories belong on local television news.
2. Give informed reasons for their decision.

PREPARATION

Make one copy of **Handout G** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students: "Do you watch local news programs? What kind of news do you see on these shows?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Negative Local News: If It Bleeds, It Leads** on page 38. Hold a class discussion using the Points of Inquiry questions on page 41.

1. Why do you think local television stations place an emphasis on crime coverage?
2. Do you think extensive crime coverage harms or helps a community? Why?
3. How do you think broadcast journalists could lessen the negative impact of crime coverage?

C. **Small-Group Activity: Local News**

Step 1. Tell students that in this activity they are going to role play news editors who must decide which stories to air on a 15-minute television newscast.

Step 2. Divide the class into small groups of three to five students. Distribute **Handout G—Local News** to each student.

Step 3. Review the handout's instructions with the class and monitor students' progress as they complete the activity.

Step 4. Call on various groups of students to present their program schedule. Debrief the activity by asking groups to explain the reasons for their choices.

EXTENSION

Ask students to watch a local television news broadcast. Ask them to list each story in order of appearance and to describe (1) the type of story (crime, health, education, fire, etc.), (2) its approximate length, and (3) whether it was positive or negative.

When the whole class meets, ask: (1) What kind of stories got the most attention? (2) What story was the most important? (3) What percentage of stories were positive? Negative? Debrief by asking how good they think the local news is.

LESSON 12: WHO WATCHES THE MEDIA?

OVERVIEW

In this lesson, students explore the need for journalistic ethics and methods for addressing journalistic abuse. First, students read and discuss an article on media ethics. Then, students conduct a survey on student attitudes about the media.

OBJECTIVES

Students will be able to:

1. Identify common ethical problems that journalists face.
2. Conduct an effective survey.
3. Identify student attitudes from survey results.

PREPARATION

You will need one copy of **Handout H** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students: "Do you trust the media? Why or why not?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Who Watches the Media?** on page 42. Hold a class discussion using the Points of Inquiry on page 47.

   1. List some reasons experts give for the breakdown of public trust in the media?
   2. Do you think laws should be passed to control the media? Why or why not?
   3. What is a code of ethics? How could a code of ethics help restore trust in the media?

C. **Paired Activity: Conducting a Survey**

   Step 1. Ask students: "How many of you have taken part in an opinion survey or poll?" After students respond, tell them they have just taken part in a survey. Ask students: "What value do surveys have?"(You can learn what people think about an issue.)

   Step 2. Divide the class into pairs. Distribute **Handout H—Media Watch Survey** to each student. This handout includes instructions for conducting a survey. Review the handout and answer any questions students may have.

   Step 3. Have students conduct the survey on each other for practice. Then have participants work in pairs to conduct the survey on five other students.

   Step 4. Have each pair of students report back the results. Debrief the survey by asking:

   - What surprised you about the results? What didn't surprise you?
   - Would the results be different if you asked adults? Other groups?
   - Which survey questions are the most important? Why?

CIVIL CONVERSATION

Two additional activities:

1. Conduct a Civil Conversation using the reading on page 44 and the procedures outlined on page 21 of this guide.
2. Conduct a Civil Conversation using the reading on page 46 and the procedures outlined on page 21 of this guide.

Chapter 3—Free Press/ Fair Trial

LESSON 13: THE MEDIA AND HIGH-PROFILE COURT CASES

OVERVIEW

In this lesson, students explore some of the problems that publicity may cause criminal trials. First, students read and discuss an article on problems posed by high-profile cases as exemplified by the O.J. Simpson murder trial. Then, in a research and writing activity, students report on other high-profile cases in American history.

OBJECTIVES

Students will be able to:

1. Identify problems that publicity may cause criminal trials.
2. Research and report on a high-profile case in American history.

PREPARATION

You will need a copy of **Handout I** for each student.

PROCEDURE

A. Focus Discussion: Ask students: "How many of you have watched a criminal trial on television? Do you think trials should be on television? Why or why not?" Hold a brief discussion.

B. Reading and Discussion: Ask students to read **The Media and High-Profile Court Cases** on page 48. Conduct a class discussion using the **Points of Inquiry** questions on page 51.

1. Do you think there should be laws against media organizations paying witnesses? Explain.
2. The article mentions several remedies that judges can take to ensure an impartial jury. Which do you think are the most effective? The least effective? Why?
3. What are the advantages of cameras in the courtroom? The disadvantages? Do you think they should be allowed in the courtroom? Explain.
4. What other problems do you think highly publicized cases cause for the justice system?

C. Small-Group Activity: Research Assignment

Step 1. Inform students that throughout American history there have been many highly publicized criminal cases that have gripped the nation. Explain that in this research and writing activity, they will all get a chance to find out about one case and report to the class on it.

Step 2. Review research tips in FILTER on page 52.

Step 3. Distribute **Handout I—Research Assignment** to students. Review the assignment. We suggest that the paper be a minimum of four pages, including title page and annotated bibliography, but fashion the assignment to fit your class. Emphasize getting a variety of sources and analyzing the sources for reliability. Assign a due date.

Step 4. On the due date, have students present their reports.

Step 5. After all the reports, debrief by asking: "What problems do high-profile cases cause the criminal justice system? What solutions do you suggest?"

Alternative presentation ideas. Having many reports in one day may present problems for some classes. Have are some alternatives:

1. Spread the reports over a week or more and limit presentations to two students each day.
2. Make the assignment a group report.
3. Spread the assignment through the semester. Draw due dates by lottery.

LESSON 14: PROTECTING NEWS SOURCES

OVERVIEW

In this lesson, students examine issues of reporter confidentiality. First, students read and discuss an article on legal rules protecting news sources. Then, in pairs students decide what they would do if they were reporters in three hypothetical situations.

OBJECTIVES

Students will be able to:

1. Express an informed opinion on whether the First Amendment protects reporter confidentiality.
2. Make decisions in three hypothetical situtations whether to break promises and reveal sources.
3. Give reasons for the decisions.

PREPARATION

You will need a copy of **Handout J** for each student.

PROCEDURE

A. **Focus Discussion:** Ask students: "How do you think reporters get stories?" Hold a brief discussion.

B. **Reading and Discussion:** Ask students to read **Protecting News Sources** on page 53. Conduct a class discussion using the **Points of Inquiry** questions on page 55.

   1. Why is it reporters want to keep their sources confidential? Do you think this is important to reporting news stories? Explain.
   2. Why does the law require almost everyone to testify at criminal trials?
   3. What were the four opinions given in the *Branzburg* case? Which, if any, do you agree with? Why?

C. **Paired Activity: Confidential Sources**

Step 1. Ask students: "What would happen if reporters often broke their promises to keep their sources secret?" (Students should answer that reporters would probably lose a lot of sources.)

Step 2. Tell students that they are going to role play reporters who must decide whether to break their promises to not reveal sources. Divide the class into pairs. Distribute **Handout J: Confidential Sources** and review the instructions.

Step 3. When the pairs finish the assignment, ask pairs what they would do in Situation #1. Discuss the reasons. Repeat for the next two situations.

Step 4. Debrief the activity by asking:

- If you were a reporter, would you promise people confidentiality? Why of why not?
- Do you think reporters should be forced to testify at criminal trials? Explain.
- How about ordinary citizens? Explain.

CIVIL CONVERSATION

As an additional activity, conduct a Civil Conversation using the reading on pages 54 and the procedures outlined on page 21 of this guide.

Chapter 4—The Myth Makers

LESSON 15: MYTHS, RUMORS AND LEGENDS

OVERVIEW

This lesson begins a section in which students examine a range of extraordinary claims and stories (often perpetuated by the media) and practice applying criteria to critically evaluate them. First, students read and discuss an article on urban legends and rumors. Next, they collect and record examples of urban legends and analyze them on given criteria.

OBJECTIVES

Students will be able to:

1. Describe and compare urban legends and rumors.
2. Analyze urban legends using given criteria outlining their common characteristics.

PROCEDURE

A. Focus Activity: Tell students:

> "Not every story we hear, read about, or see on television is true. For thousands of years, people have believed scary or bizarre tales. They are still told today and may appear in books, magazines, or on television. They may be about flying saucers, ghosts, psychic powers, or government conspiracies."
>
> Then ask: "What are some examples of such tales that you have heard, read, or seen on television?"
>
> Encourage several students to relate examples from their own experience. Then explain that part of being an informed citizen is being able to evaluate and make up your mind about whether the information you receive is true. Tell them that in this section we will learn how to ask tough questions about extraordinary claims.

B. Reading and Discussion: Ask students to read **Myths, Rumors, and Legends** on page 56. Then lead a class discussion using the Points of Inquiry on page 58.

1. Based on the descriptions in the reading, have you ever heard an urban legend? If so, what was it? Which of the characteristics did it contain?
2. Have you ever been the subject of a false rumor? How did it make you feel? What did you do about it?
3. What advice would you give to someone who believes an urban legend or rumor?

C. Individual Activity: Researching and Evaluating Urban Legends

Step 1. Tell students that in this activity they are going to collect some urban legends of their own and evaluate them according to the characteristics in the reading. As a first step, each student must find an urban legend. This can be done at the library (hint: check the folklore section) or on the Internet (by searching under Urban Legends).

Step 2. Once each student has an urban legend, the assignment is to write a short paper with two components: (1) a retelling of the urban myth in the students own words and (2) a brief written analysis of the urban legend describing it in terms of the characteristics listed in the reading.

Step 3. Have students exchange papers and share analyses with one another. Debrief the activity with a class discussion in which students share their legends and analyses with the class.

CIVIL CONVERSATION

As an additional activity, conduct a Civil Conversation using the reading on page 59 and the procedures outlined on page 21 of this guide.

LESSON 16. CONSPIRACY THEORY

OVERVIEW

In this lesson, students examine a common extraordinary claim: the conspiracy theory. First, they read and discuss an article describing the history of conspiracy theories and common elements they share. Then in a class activity, students will analyze descriptions of claims often made by conspiracy theorists in terms of logical flaws.

OBJECTIVES

Students will be able to:

1. Identify conspiracy theories and describe them in terms of given elements.
2. Analyze claims common to conspiracy theories in terms of their elements and logical fallacies.

PREPARATION

You will need a copy of **Handout K** for each student.

PROCEDURE

A. **Focus Discussion:** Ask the class the following questions:

- Have you ever hear the term, "conspiracy theory"? What is it? (From movies or the popular media, students should propose definitions.)
- What are some examples? (E.g., assassination of President Kennedy, his brother, or Martin Luther King; government cover-ups of flying saucers; control of the U.S government by foreign powers; the death of Marilyn Monroe, etc.)

Explain that in this lesson they will examine various conspiracy theories and learn how to evaluate them.

B. **Reading and Discussion:** Have students read **Conspiracy Theory** on page 60. Conduct a class discussion using the Points of Inquiry questions on page 62.

1. Have you heard or read about any of the conspiracy theories mentioned in the article? If so, what was their source?
2. What are some other conspiracy theories? Describe them. What proof is offered in their support? Is it valid?
3. Why do you think people believe in conspiracy theories?

C. **Small-Group Activity: Conspiracy Busters**

Step 1. Divide the class into groups of two or three students each. Distribute **Handout K—Conspiracy Busters** to each student.

Step 2. Review the handout instructions with the class and monitor students' progress as they complete the activity.

Step 3. Call on various groups of students to present their reports. Add to the list of items as they are identified.

Step 4. Debrief the activity by asking if any groups checked the "pursue" box on the form and whether they would reconsider.

LESSON 17: WHAT'S GOING ON HERE?

OVERVIEW

This lesson focuses on another common type of extraordinary claims, those of the paranormal. First, students read and discuss an article describing various kinds of paranormal claims and the debates over their validity. Then students review a checklist for evaluating extraordinary claims and, in an activity, use it to evaluate some given examples.

OBJECTIVES

Students will be able to:

1. Identify examples of paranormal claims commonly made in the media.
2. Identify criteria for evaluating extraordinary claims made by the media.
3. Evaluate extraordinary claims with reference to the given criteria.

PREPARATION

You will need one copy of **Handout L** for each student.

PROCEDURE

A. **Focus Discussion:** Tell students that in this lesson they are going to discuss another kind of extraordinary claim often covered by the media: those of the paranormal. Then ask:

- What is the definition of paranormal? (Lead students to understand that paranormal claims are those that are outside the normal, for which there is no scientific proof.)
- What are some examples of paranormal claims that might be found on television or in books or magazines? (Students might identify flying saucers, ghosts, hauntings, ESP, etc.)

Explain that in this lesson, students will examine some paranormal claims and discover some ways for evaluating them.

B. **Reading and Discussion:** Ask students to read **What's Going on Here?** on page 63. Lead a class discussion using the Points of Inquiry questions on page 67.

1. With which paranormal subjects are you familiar? Make a list.
2. Why are paranormal subjects so popular?
3. Do most people view paranormal subjects as truth or fiction? Why?
4. What are some possible dangers of many people believing in the paranormal?

C. **Reading and Discussion:** Information-Age Checklist: Carefully review with students the material contained in FALSE on page 64. Discuss any questions they might have and, for each of the items, ask students to provide additional examples from their own experience.

D. **Paired Activity: The Z Files**

Step 1. Divide the class into pairs of students. Distribute **Handout L—The Z Files** to each student.

Step 2. Review the activity instructions with the class and monitor student progress as they complete the activity. Create four boxes on the board and designate each with one of the following letters: A, B, C, or D.

Step 3. Call on several pairs to report their answers and provide reasons for Case File A. Repeat the process for B-D.

Step 4. Debrief the activity by reviewing and adding to the findings with reference to the following:

A. S and A. Mere eyewitness testimony is often flawed and raises questions about the Source of the claim. In addition, there could be numerous Alternative and normal explanations for the bright light or the craft.

B. F and S. This claim fails because it is impossible to prove it false—the claims are so vague as to be meaningless. The claimant also appears to be a questionable Source as she seems to make a living from selling crystals.

C. E. This claim fails for a lack of evidence. The claimant has the burden of proof and he offers little, but a refutation of other theories of which he lacks expertise.

D. A and E. This claim fails because there are Alternative explanations for the face including a natural rock formation and the effect of shadows and light. Since the face is not proven to be made by advanced beings, it is not sufficient Evidence to assert the claim of an advanced civilization.

EXTENSION

Assign students to watch a television program that features paranormal claims and evaluate one of its stories or claims using the FALSE checklist. Students should report and discuss their findings with the class.

Chapter 5—New Frontiers

LESSON 18: NEW FRONTIERS

OVERVIEW

In this lesson, students, through a reading and discussion, examine issues related to the regulation of content on the Internet. Then in a group activity, students evaluate a proposed policy for monitoring potentially offensive content on the Internet.

OBJECTIVES

Students will be able to:

1. Describe two areas of proposed content regulation on the Internet: indecency and hate speech.
2. Evaluate a proposed policy for regulating indecency and hate speech on the Internet.

PROCEDURE

A. **Focus Discussion:** Begin the lesson by conducting a class discussion using the following questions:

- Who has used the Internet? For what purpose?
- What are some examples of web sites you have visited?
- How would you rate the quality of the information on the Internet?

B. **Reading and Discussion:** Have students read **A Brave New World** on page 68. Lead a class discussion using the Points of Inquiry questions on page 70.

1. Do you agree with the U.S. Supreme Court decision in the *Reno* case? Why or why not?
2. Do you think that hate-based web sites should receive full First Amendment protection? Why or why not?
3. Do you agree with the tactic of applying pressure against Internet service providers to remove indecent or hate-based sites from the World Wide Web? Why or why not?
4. What are the advantages of having a free flow of information on the Internet? What are some possible disadvantages?

C. **Small-Group Activity: Cyber Policy**

Step 1. Explain to students that in this activity they are going to take the role of lawmakers and evaluate a proposed policy for regulating content on the Internet. Review Information-Age Checklist—Policy on page 22.

Step 2. Divide the class into groups of four or five students.

Step 3. Write the following proposed bill on the board:

> By January 1, all Internet Service Providers (ISPs) operating within the United States and its territories must provide all users with software capable of screening or blocking all World Wide Web sites that contain (1) obscene or indecent material and (2) material that incites hatred or violence against any racial or ethnic group, religion, or gender.

Step 4. Tell students that each group is a legislative subcommittee. Ask them to appoint a chairperson (who will lead the group's discussions), a recorder (who takes notes and helps prepare the report), and a reporter (who reports to the class).

Step 5. Inform them that the subcommittee's task is to prepare a report that makes a recommendation to (1) Adopt, (2) Reject, or (3) Table for Further Consideration the proposed bill. Each report must clearly state the reasons for the recommendation based on the subcommittee's policy evaluation discussions. Tell students to discuss the proposed bill using the Information-Age Checklist—Policy questions on page 22. Monitor group progress as students complete their tasks.

Step 6. Call on the reporter of each subcommittee to make the group's report.

Step 7. Debrief the activity, using the following question: "What modifications might be made to the proposed policy to assure freedom of speech and the free flow of information on the Internet?"

EXTENSION

Select a subject (or subjects) that you are studying or are going to study. Have students find web sites related to this subject and, and using the SEARCH criteria, select the five best sites. Students should make a one-page report listing the five top sites (names and URLs) and explain the strenghts and weakness of each site.

CONDUCTING A CIVIL CONVERSATION IN THE CLASSROOM

OVERVIEW

Controversial legal and policy issues, as they are discussed in the public arena, often lead to polarization, not understanding. This Civil Conversation activity offers an alternative. In this structured discussion method, under the guidance of a facilitator, participants are encouraged to engage intellectually with challenging materials, gain insight about their own point of view, and strive for a shared understanding of issues.

OBJECTIVES

Students will be able to:

1. Gain a deeper understanding of a controversial issue.
2. Identify common ground among differing views.
3. Develop speaking, listening, and analytical skills.

FORMAT OPTIONS

1. A large-group conversation requires that all students sit in a circle or, if the group is too large, pair the students so that there is an inner and outer circle with students able to move back and forth into the inner circle if they have something to add.
2. Small-group conversation can be structured either with a small group discussing in the middle of the class "fish bowl" style or simultaneously with different leaders in each group.
3. Conversations for classroom purposes should have a time limit generally ranging from 15 to 45 minutes and an additional five minutes to reflect on the effectiveness of the conversations. The reflection time is an opportunity to ask any students who have not spoken to comment on the things they heard. Ask them who said something that gave them a new insight, that they agreed with, or disagreed with.

PREPARATION

You will need one copy of **Handout M** for each student.

PROCEDURE

A. Introduction: Briefly overview the purpose and rationale of the Civil Conversation activity. Distribute copies of **Handout M—Civil Conversations**. Review the rules.

B. Reading Guide: Review, select, and refer students to one of the Civil Conversations in the text. Have students working in pairs complete the reading by following the instructions and responding to the questions in the Civil Conversation **Reading Guide**.

C. Conducting the Activity

Step 1. Select one of the formats and time frames from above and arrange the class accordingly.

Step 2. If selecting the large-group format, the teacher leads the discussion using the procedures from below. If using a small-group format, write the following procedures on the board and review them with the class. Then select co-conversation leaders for each group.

LEADERS' INSTRUCTIONS

- Begin the conversation, by asking every member of the group to respond to questions 3 and 4 of the **Reading Guide**. Members should not just repeat what others say.
- Then ask the entire group to respond question 5 and jot down the issues raised.
- Continue the conversation by discussing the questions raised.

Step 3. Debrief the activity by having the class reflect on the effectiveness of the conversation. Begin by asking students to return to the **Reading Guide** and answer questions 6 and 7. Then ask:

- What did you learn from the Civil Conversation?
- What common ground did you find with other members of the group?

Then ask students who were not active in the conversation to comment on the things they learned or observed. Conclude the debriefing by asking all participants to suggest ways in which the conversation could be improved. If appropriate, have students add the suggestions to their list of conversation rules.

FINAL ASSESSMENT

OVERVIEW

We offer two assessment strategies. The first consists of a short multiple-choice and essay test (with an answer key for the multiple-choice section). The second is an exciting Internet activity "Countdown to Doomsday," which can serve as an authentic assessment of what students have learned from *The Challenge of Information*.

To do "Countdown to Doomsday," students first take the multiple-choice and essay test. Students can then either use the correct answers from the multiple-choice part of the test as a code to download the assignment from our web site or get the assignment directly from you (we provide instructions for you to download the entire assignment and model answers from our web site).

"Countdown to Doomsday" is a research, analysis, and writing exercise. Students apply the skills they learned in *The Challenge of Information* by taking the role of investigative reporters. Their assignment is to review a rival newspaper's story that contains a controversial claim and proposes a public policy. The controversial claim is that a dangerous asteroid will soon hit Earth and the proposed policy involves taking steps to blow up this asteroid. First, students use research (much of it provided in the materials) to separate fact from fiction. Then they write two papers: (1) a feature story evaluating the claims and (2) an editorial evaluating the proposed policy. Finally, students turn in their work product to the teacher who evaluates it using model answers.

NOTE: Teachers are invited to select one feature story and one editorial from each class and forward the names to Constitutional Rights Foundation (CRF) for recognition on a special page of the CRF web site.

OBJECTIVES

Students will be able to:

1. Take a multiple-choice and essay test on *The Challenge of Information*.
2. Do background research using case files, the library, and the Internet to separate fact from fiction in a hypothetical news story.
3. Write a feature story evaluating the claims made in the hypothetical story.
4. Write an editorial evaluating a public policy proposed in hypothetical story.

PREPARATION

You will need one copy of **Handout N** for each student.

If you are going to use the authentic assessment "Countdown to Doomsday," you will also need to consider the following:

There are separate student and teacher sections on our "Countdown to Doomsday" web page.

The **student section** contains instructions; a memo from the newspaper's editor outlining the investigative reporter's assignment; a tabloid-style feature article about the dangers of asteroids that also describes a public policy imperative; hypothetical interviews; a brief scientific treatise, several public policy options; and a list of online and offline research resources.

The **teacher section** contains all the materials in the student section plus procedures for completing the activity, model answers that serve as evaluation criteria for students' work, and a nomination form for recognition on CRF's web site.

You will need to download the teacher section. Go to CRF's web site (www.crf-usa.org) and click on *The Challenge of Information*. The page will ask for Teacher User Name. Insert your name. It also asks for a Password. Type in W467CK and press Enter. Follow the instructions for downloading. You can print the material using your word processor and printer.

Decide whether you will (A) copy the student materials and distribute them to students or (B) have students download the material. If students download the material, they need to go to CRF's web site, click on *Challenge of Information*, insert their name under Student User Name and type in CADBACECBD as the Password. NOTE: The password corresponds to 10 answers from the multiple-choice part of the test on **Handout N**. Students should get the code by doing the test. Students who do not answer the multiple-choice items correctly should be encouraged to review the material in *The Challenge of Information* and correct their answers so that they, too, can access the activity.

PROCEDURE

If you are just giving the multiple-choice and essay test, distribute **Handout N–Final Assessment** to each student, allow them time to take the test, and correct the test.

Procedure for "Countdown to Doomsday"

Step 1. Tell students they are going to take a test on *The Challenge of Information*. Distribute **Handout N–Final Assessment** to each student. Allow time for students to complete the test. Grade the essay portion of the test.

Step 2. If you are distributing the student material yourself, check student answers on the multiple-choice part using the answer code below, distribute the assignment to students, and answer any questions they may have. If you want students to get the assignment off the web, tell students that they should go to the CRF web site (www.crf-usa.org) and enter their names at Student User Name and the code from the multiple-choice answers on **Handout N** as the Password. Encourage students who do not get the code right to review the material in *The Challenge of Information* and correct their answers.

Step 3. Review the assignment with students. Give them a deadline.

Step 4. When students complete the assignment, use the model answers you have downloaded in the teacher materials to help you evaluate the activity.

Step 5. Send CRF an e-mail (crfpubs1@aol.com) with the first name and initial from the last name of (1) the student who wrote the best feature story evaluating the claims and (2) the student who wrote the best editorial evaluating the proposed policy. We will post these names on our web site as winners of the Golden Pen awards. Be sure to include the name of your school, the teacher's name, and the title of the course. We would also appreciate any comments you may have on the activity and the book.

ANSWERS TO HANDOUT N

1-C; 2-A; 3-D; 4-B; 5-A; 6-C; 7-E; 8-C; 9-B; 10-D

ADDITIONAL RESOURCES FROM CONSTITUTIONAL RIGHTS FOUNDATION

These Constitutional Rights Foundation materials may be of interest to those using *The Challenge of Information*:

Foundations of Freedom: A Living History of our Bill of Rights. This highly illustrated text traces the 200-year history of the Bill of Rights.

From the School Newsroom to the Courtroom: Lessons on the Hazelwood Case and Free Expression Policy Making in the Public Schools. This supplement takes an in-depth view of the landmark 1987 Supreme Court decision of *Hazelwood v. Kuhlmeier.*

Bill of Rights in Action. This quarterly curricular newsletter is distributed free to educators throughout the United States. (If you are not in the United States, you can download it from our web site.) To subscribe, send us your U.S. mailing address. You can send this information via fax, e-mail, or regular mail.

Constitutional Rights Foundation publishes a wide variety of curricular materials. You can send for a catalog or view it at our web site.

Stop the Presses!

You are the editors of a newspaper at a major public university. In this week's edition, there are four stories that pose problems. Read each. On a separate sheet of paper, answer the following questions for each story. Refer to the article "A Free Press" to help you answer these questions.

Questions to answer for each story:

- What problems might the story cause?
- Is the story protected by the First Amendment? YES NO Explain.
- Will you print the story? YES NO Explain.

Story #1: Professor Profile. One of the ongoing features in your paper is to profile a different professor each week. Your reporter has uncovered the fact that Professor Herman Fossbinder, the object of this week's profile, committed an armed robbery in his youth. Fossbinder admits it but doesn't want you to print it. He says the court sealed the record of his conviction.

Story #2: Invasion. In the next week, U.S. troops will invade a small Caribbean nation. This invasion is top secret. You got this story from a friend, a member of the armed forces, whose unit will take part in the secret invasion.

Story #3: University President. A team of your reporters have uncovered facts that seem to indicate that the president of your university has embezzled thousands of dollars from scholarship funds. The president strongly denies this.

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Malice

Imagine you are trial judges. On your docket, you have four libel actions. For each you must determine whether the plaintiff (the person suing) is a public official, public figure, or private citizen. Your decisions are important because the U.S. Supreme Court has made it much more difficult for public officials or public figures to win a libel suit. They must prove "actual malice," that the defendant made defamatory statements either knowing they were false or with reckless disregard of the truth.

Follow these instructions:

(1) In **Revolution in Libel Law: *New York Times v. Sullivan* and Its Aftermath**, review the definitions of public officials and public figures and the reasons the court requires them to prove actual malice.

(2) Consider each case below carefully and decide whether the plaintiff is a public official, public figure, or private citizen.

(3) On a separate sheet of paper, write your reasons for each decision.

Plaintiff #1: Harry Phelps. Phelps teaches third grade, is active in the Parent Teacher Association (PTA), and serves as union representative for teachers at his school. At a recent PTA meeting, Phelps got into a heated argument with some parents. Following the meeting, one parent wrote an open letter to the faculty denouncing Phelps as a drunk.

Plaintiff #2: Julia Ramirez. Ramirez runs the Zoning Department for her city. This is not an elected or appointed post. She is a career civil service employee who has worked her way to the top of the department. On a recent talk radio program, a caller accused Ramirez of taking bribes to approve the zoning for a new office complex.

Plaintiff #3: Ron James. James, an unemployed construction worker, was shot and seriously wounded when he grabbed a gunman shooting at the governor (who was not injured due to James' heroics). In the ensuing media coverage, one TV station wrongly reported that James was carrying drugs.

Plaintiff #4: John Folsom. Folsom is the husband of a world-famous movie actress. A supermarket tabloid reported that Folsom is secretly dating another famous actress.

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Consider the Source

You are editors of a large urban newspaper. All the stories in your paper must be based on reliable sources. The four stories below have been submitted by reporters. Read each story. On a separate sheet of paper, answer these questions for each story. (Be sure to explain your answers.) Use the SMART tests from the Information-Age Checklist on page 27 to help you.

Questions to answer for each story:

- Will you print the story? YES NO
- If no, what does the reporter need to do before you can print it?
- What are the reasons for your decision?

Story #1: The city transportation workers have been on strike for one week. City hall and the union are conducting secret negotiations. A prominent union official has informed your reporter that the city refuses to negotiate and is planning to hire new workers if the union does not accept the offer made before the strike began.

Story #2: Three players were suspended for one month from a local university basketball team. The players have rejoined the team. Every reporter seems to know that one player will be permanently kicked off the team because the player has once again tested positive for marijuana. No player will talk with you and university officials refuse to discuss the matter. They won't even reveal the reason for the first suspension. Your reporter has learned that a rival paper is going to print this story tomorrow.

Story #3: City Council Member Jones ran for office as a strong environmentalist. Since her election, she has pursued this agenda with one exception. She has supported a large development in a wetlands area. John Smith told your reporter that he accidentally intercepted a cellular telephone call between Jones and the developer. According to Smith, the developer offered Jones $50,000 for her support of the project. The reporter says that Smith is an upstanding member of the community with no connection to Jones or her political opponents.

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Should *Millenium* Drop It?

You are the editors of *Millenium*, a new magazine for young people that features articles on national and world news and contemporary culture. As editors, it is your responsibility to set editorial policy. This includes deciding the extent to which you will allow advertising to influence your publication. The publisher of *Millenium* informs you that three new advertisers have contacted the magazine. They want to place regular ads in *Millenium* but they have special demands. Your publisher reminds you that advertising pays for more than half *Millenium*'s $6 million yearly budget.

Your job is to (1) accept, (2) reject, or (3) modify each proposal. The publisher needs reasons for each of your decisions.

Proposal #1: Cyklon Computers (Projected advertising: $250,000 per year)

Cyklon wants to know ahead of time about any articles that you write describing health hazards that may arise from the use of computers. It also wants Cyklons to appear in any *Millenium* cover photo that includes a computer. It wants Cyklon ads to appear next to any *Millenium* stories about computer science and technology.

ACCEPT REJECT MODIFY

If modify, explain how: _____

Reasons for your decision: _____

_____

Proposal #2: Sandra Mae Dolls (Projected advertising: $125,000 per year)

Sandra Mae wants to publish ads in *Millenium* but the company is concerned with its public image. It doesn't want its ads to appear in any issue of *Millenium* that features stories about sex, drugs, religion, or any other topic that it considers to be offensive, anti-social, or in bad taste.

ACCEPT REJECT MODIFY

If modify, explain how: _____

Reasons for your decision: _____

_____

Proposal #3: EcoSphere Electric Cars (Projected advertising: $185,000 per year)

EcoSphere wants to be present at meetings of the editorial staff of *Millenium*. It wants to help develop ideas for news stories that appear in *Millenium*. It also wants its ads placed in any issue of *Millenium* that features stories about the dangers of pollution and global warming.

ACCEPT REJECT MODIFY

If modify, explain how: _____

Reasons for your decision: _____

_____

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Tabloid or Not Tabloid?

You are the editors of the *Daily Mercury*, a popular newspaper in a large American city. You are in charge of deciding how to cover the news. Work together to decide whether to use the stories and practices illustrated below. List the reasons for your decisions.

Editorial decision #1: Representatives from two warring factions of an embattled North African nation are planning to meet for peace talks. There are no photos of the two men together. The graphics designer says she can use computer graphics to combine two separate photos of the former enemies into one picture. You would mark the photo as a composite.

Should the graphics designer make a composite photo of the two men? YES NO

Reasons for your decision:_____

_____

Editorial decision #2: A local politician has been discovered in a hotel room with a woman who is not his wife. A local scientist has announced a major scientific breakthrough. You only have room for one headline story.

Which story makes the headline? LOCAL POLITICIAN LOCAL SCIENTIST

Reasons for your decision:_____

_____

Editorial decision #3: A major crime figure has been arrested on murder charges. A close friend of the suspect approaches one of your reporters and offers an exclusive interview that would provide information about the suspect that is available to no other news organization. This would be a major scoop for your paper. The suspect's friend wants $12,000 for the interview.

Should you pay for the information? YES NO

Reasons for your decision:_____

_____

Editorial decision #4: A famous movie star has recently been arrested on charges of drug abuse. The star and his family live together on a private estate in your community. One of your photojournalists wants to apply for a job as a gardener on the actor's estate in order to secretly photograph the actor, his wife, and children.

Should the photojournalist to apply for the gardening job? YES NO

Reasons for your decision:_____

_____

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Limiting Undercover Journalism

You are advisers to the governor. The governor has asked you to recommend whether she should support two measures that are currently before the state legislature. These measures attempt to prohibit journalists from using deception to gather information.

Proposed Measures

Proposal #1: No journalist may use false information to gain admittance to a private home, place of business, or government office.

Proposal #2: No one may use hidden cameras or tape recorders without the consent of the persons being taped.

Both proposals are punishable by fines up to $5,000 and jail time up to six months.

Instructions

Step 1. Select a chairperson to lead the discussion, a recorder to take notes, and a presenter to report your results to the class.

Step 2. Read and discuss the Proposed Measures. Use the Information-Age Checklist GRADE on page 22 to help you evaluate each measure. On a separate sheet of paper, write down your responses to each GRADE test. Use information from the article **Undercover: ABC Goes Lion Hunting** to help you.

Step 3. Decide whether the governor should support or oppose these measures. Be prepared to give reasons for your decisions.

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Local News

You are the editors for the nightly news at KNEW, a popular local television station. Your job is to choose stories for the KNEW Evening News, a 15-minute broadcast featuring local stories.

Four of the 15 minutes of your broadcast are dedicated to commercials, giving you a total of 11 minutes of news time. You have three different story lengths: 30-second Spots, 60-second Stories, and 2½-minute (150-second) Features.

On a separate sheet of paper make a **Program Schedule** with three columns:

Column One. Put the stories in the order you would present them. (1, 2, 3, etc.).

Column Two. Tell the story length (Spot, Story, or Feature). The total must be 11 minutes.

Column Three. State the reason you chose this story for this position and length.

Below is the list of today's local news stories. Choose the ones you will run and put them on your Program Schedule. Stories must total 11 minutes.

(A) Woman, 70, will run in marathon.

(B) Local attorney appointed as head of state highway commission.

(C) Annual parade is rousing success.

(D) Mental health center offers new programs.

(E) Local students win academic decathlon.

(F) Sheriff cracks down on speeding on Canyon Rd.

(G) Accelerated learning program to help failing students.

(H) State proposes ban on smoking in all buildings open to the public.

(I) Conservationists want to save historic building slated for demolition.

(J) Police arrest man in vehicle break-ins.

(K) Carjacker strikes again.

(L) Local medical school honors three business leaders

(M) Husband held in killing of wife.

(N) Executive charged in drug, sex, gambling ring.

(O) Random freeway shooting thought to be gang-related.

(P) Residents demand new park.

(Q) Couple to lead church as co-pastors.

(R) Famous old restaurant will reopen.

(S) New fire chief named.

(T) Panel urges freeway extension.

(U) Former mayor dies.

(V) Garbage collectors may strike.

(W) Toxic chemicals found at dump.

(X) City council proposes curfew.

(Y) Forecasters predict no change in weather.

(Z) Local sports news.

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Media Watch Survey

The purpose of this survey is to determine what people in your school think about journalists' rights and responsibilities.

There are two steps to conducting this survey:

1. **Select the people you want to survey.** Students? Teachers? People of all ages? Other groups? You don't have to ask every student to learn people's attitudes. Take a random sample. For example, choosing every fifth home room would give you a random sample of students.
2. **Conduct the survey.** Be sure to explain the purpose of the survey. Tell people they do not have to give their names. Be polite. People who answer your survey are doing you a favor.

Survey Questions

1. Where do you get most of your information about local, national, and world affairs?

   Television Newspapers Nowhere Other Unsure

2. Do you think the media tell the truth?

   Always Most of the time Some of the time Never Unsure

3. Do you think the media ignore people's right to privacy?

   Always Most of the time Some of the time Never Unsure

4. Do you think freedom of the press should be part of our First Amendment right to freedom of speech?

   Yes No Unsure

5. Do you think the media abuse freedom of the press?

   Always Most of the time Some of the time Never Unsure

6. Do you think journalists can control their own news-gathering practices with a code of rules or ethics?

   Yes No Unsure

7. Do you think journalists should be able to use deception to gather information?

   Yes No Unsure

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Research Assignment

Aside from the murder trial of O.J. Simpson, there have been many criminal trials that have generated enormous publicity. Some have even been hailed as "the trial of the century." In this activity, you will research and report on one of these trials.

1. Select one of the following trials:

   a. 1865 trial of Dr. Samuel A. Mudd for aiding conspirators in murdering Abraham Lincoln.
   b. 1865 trial of Captain Henry Wirz for war crimes at Andersonville Prison.
   c. 1886 Chicago Haymarket bombing trial of August Spies, Samuel Fielden, Michael Schwab, Adolph Fischer, George Engel, Louis Lingg, Albert R. Parsons, Rudolph Schnaubelt, William Seliger, and Oscar Neebe for conspiracy to commit murder and riot.
   d. 1892 trial of Lizzie Borden for the ax murders of her father and stepmother.
   e. 1907 trial of Bill Haywood for murdering Frank Steunenberg, ex-governor of Idaho.
   f. 1921 trial of Sacco and Vanzetti for robbery and murder.
   g. 1925 trial of John Scopes for breaking the Butler Law against teaching evolution.
   h. 1935 trial of Bruno Richard Hauptmann for kidnaping and murdering the Lindbergh baby.
   I. 1950 trial of Alger Hiss for perjury.
   j. 1951 trial of Ethel and Julius Rosenberg for conspiring to spy for the Soviet Union.
   k. 1954 and 1966 trials of Sam Sheppard for murdering his wife.
   l. 1969 trial of Sirhan Sirhan for assassinating Robert Kennedy.
   m. 1971 court martial trials of Lt. William Calley and Captain Ernest Medina.
   n. 1976 trial of Patty Hearst for armed robbery.
   o. 1982 trial of John Hinckley for the attempted assassination of Ronald Reagan.
   p. 1982 and 1985 trials of Claus von Bülow for the attempted murder of his wife.
   q. 1984 trial of John Z. Delorean for selling cocaine.
   r. 1985 trial of Bernhard Goetz for attempted murder, assault, and illegal gun possession.
   s. 1990 trial of Imelda Marcos for racketeering and fraud.
   t. 1992 trial of Manuel Noriega for racketeering and conspiracy to distribute cocaine.
   u. 1992 and 1993 trials of police officers Laurence Powell, Stacey Koon, Theodore Briseno, and Timothy Wind for beating Rodney King.

2. Use the tips in FILTER on page 52 to help you research the case. Your case generated much controversy. Some people agreed with the verdict and others disagreed. Find sources from each side. Check books, newspapers, magazines, the Internet. Find the titles of any films that have been made based on your case.

3. Write a report. Tell about the trial, any appeals, and the aftermath of the trial. Answer each of the following questions in detail. If the question calls for an opinion, explain the reasons for your opinion fully.

   What was the case about?

   What kind of publicity did it receive? Why did it generate so much publicity?

   What did the judge do to ensure a fair trial? Do you think this was enough?

   What was the verdict in the trial? Why do you think the jury reached this verdict? Do you agree with it?

   [Note: Some cases had more than one trial. Be sure to include information on all trials and appeals.]

   Include an annotated bibliography, listing your sources and commenting on reliability of each.

4. Be prepared to present your report in an interesting way to the whole class.

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Confidential Sources

You're a reporter for a major newspaper. For six months, you have been working on an investigative story about how gangs operate in your community. You have gained entrance to the P3s, the most dangerous gang in your community. In exchange for letting you observe them, you have promised gang members that you will not reveal their names or secrets. Explain what you would do in the following situations:

Situation #1. A member of the gang confesses that he pulled a bank robbery. After your story is written, the police realize that you know a lot about the gang, which they suspect robbed the bank. The district attorney sends you a subpoena (an order) to appear before the grand jury. Your state has no shield law. What should you do? (Circle one.)

TESTIFY BEFORE THE GRAND JURY REFUSE TO TESTIFY AND GO TO JAIL

Explain:_____

_____

_____

Situation #2. One day, while you're with gang members, you hear them planning to retaliate against another gang. They say that early tomorrow morning they're going to spray an apartment house with gunfire. What should you do? (Circle one.)

TELL THE POLICE KEEP QUIET

Explain:_____

_____

_____

Situation #3. Many of the gang members are heavily involved with heroin. You notice that they often use their own young children to run drug errands. You mention this in your story. The next day, two agents from Child Protective Services come to your office. They want the names of the children so that they can be removed from these homes. What should you do? (Circle one.)

TELL THEM THE NAMES REFUSE TO GIVE THEM THE NAMES

Explain:_____

_____

_____

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Conspiracy Busters

Directions: Imagine that you are a researcher at a secret government agency. The job of the agency is to investigate conspiracy theories to determine whether they have validity. You and your partners have been assigned the task of evaluating the following letter and writing a report to give to the Agency Director. Follow these steps:

1. Review the reading **Conspiracy Theory** on page 60.

2. Carefully review the following letter, which has been received by the agency:

TO WHOM IT MAY CONCERN:

My name is John Krebs, M.D. I am about to publish a book called *Microwave Death*. It contains the results of 10 years of research during which I uncovered a conspiracy of enormous danger. It involves the Pentagon, major high-tech corporations, and a significant number of our elected officials. In a nutshell, these groups are working together to utilize microwaves to create weapons of mass destruction, to impose mind control to manipulate American citizens, and to change the climate of the United States. Here are just a few of the facts:

- The Department of Defense has funded research in microwave development for nearly 40 years.
- Thousands of American citizens have complained of microwave monitoring, including mind control attempts and other symptoms such as anxiety and poor health.
- Budco Industries installed a microwave sending station on the coast of Peru just before the appearance El Niño in 1997.
- Files proving the conspiracy had been collected by my associate, whom I cannot name, because he is a government employee. They were destroyed in a fire of mysterious origin, which "fire investigators" called an "accident." Fortunately, my associate has a photographic memory and created notes upon which I base my findings.

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Conspiracy Busters

3. As a group, discuss and fill out the following report. Be prepared to present your report to the director.

Agency Report Form 7-22A

1. Researchers submitting this report: (Names)

2. Era involved (Check one) Historical____ Contemporary____

3. Reasons this conspiracy theory may be invalid: (Provide at least two examples):

4. Logical problems noted: (Provide at least two examples):

5. Recommendations (Check one) Pursue___ File____ Discard___
(Provide reasons)

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The Z Files

Congratulations, you have been promoted from a researcher at the secret government agency to a field investigator. Now, you and your partner are in charge of investigating the agency's strangest cases drawn from the basement archives, the Z Files. Because of limited resources, agency guidelines require that a claim pass all of the FALSE tests before a formal investigation is commenced. To complete your assignment, follow these steps:

1. Carefully review the FALSE tests with your partner.
2. Read and discuss the following file summaries. Place an F, A, L, S or E in the box following any of the items that fail that test. Place multiple letters, if appropriate. Then, in the space provided, explain your answer.

Case File A: James Armey, a lab worker, claims that his car was followed home late one night by a bright light. After going to sleep, he was awakened by a loud noise. Looking out his window toward the airport, he saw a UFO rise straight up in the air at great speed and vanish. He claims it was from outer space.

_____ Reasons:_____

_____

_____

Case File B: Writer Michelle Pfister claims in her new book, *The Crystal Connection*, that people who own crystals are protected from negative energy and enjoy a greater sense of well being. Pfister owns a crystal shop in Arizona.

_____ Reasons:_____

_____

_____

Case File C: Judd Mack, a retired Army major, claims that the AIDS virus was created by the U.S. government in 1972 as part of a germ warfare program and that a lab accident in 1979 released it on the world. He argues strongly that current scientific theories about its origins are incorrect, but provides little evidence for his own theory except that the government is covering up the facts.

_____ Reasons_____

_____

_____

Case File D: Numerous people report being able to see what they believe to be a huge stone head in NASA photos of the surface of Mars. This, they claim, proves that at one time Mars supported an advanced civilization.

_____ Reasons:_____

_____

_____

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Civil Conversations

RULES FOR CIVIL CONVERSATIONS

1. Read the text as if it were written by someone you really respected.
2. Everyone in the conversation group should participate in the conversation.
3. Listen carefully to what others are saying.
4. Ask clarifying questions if you do not understand a point raised.
5. Be respectful of what others are saying.
6. Refer to the text to support your ideas.
7. Focus on ideas, not personalities.

CIVIL CONVERSATION READING GUIDE

Reading _____

Read through the entire selection without stopping to think about any particular section. Pay attention to your first impression as to what the reading is about. Look for the main points, and then go back and re-read it. Briefly answer the following questions.

1. This selection is about _____
2. The main points are:

   a) _____

   b) _____

   c) _____

3. In the reading, I agree with _____

   _____

4. I disagree with _____

   _____

5. What are two questions about this reading that you think need to be discussed? (The best questions for discussion are ones that have no simple answer, ones that can use materials in the text as evidence.)

   _____

   _____

The next two questions should be answered after you hold your civil conversation.

6. What did you learn from the civil conversation? _____

   _____

7. What common ground did you find with other members of the group? _____

   _____

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Final Assessment

Multiple-Choice Questions

1. Freedom of the press is guaranteed by the
___ A. Declaration of Independence.
___ B. Gettysburg Address.
___ C. First Amendment.
___ D. Fourth Amendment.
___ E. Fifth Amendment.

2. Some limits have been placed on freedom of the press in all of the following areas **except**
___ A. politics
___ B. privacy
___ C. obscenity
___ D. national security
___ E. defamation

3. In a libel action, which of the following is **least likely** to be considered a public figure?
___ A. a large corporation
___ B. a movie star
___ C. a newspaper columnist
___ D. an accountant
___ E. a criminal defendant in a highly publicized trial

4. Which factor would **not** help justify reporters going undercover?
___ A. There was no other way to find the information.
___ B. It was easier to cover the story.
___ C. The information was of vital public importance.
___ D. The harm of the deception was outweighed by the harm prevented by revealing the information.
___ E. Before going undercover, the reporters went through a careful, deliberative process.

5. Journalists have traditionally demanded separation between advertising departments and newsrooms because
___ A. stories should be covered if they are newsworthy, without concern for whether they will attract or repel advertisers.
___ B. the media are owned by large corporations.
___ C. advertising allows publishers to charge less money for their product.
___ D. publishers would rather print advertisements than news.
___ E. advertising plays an insignificant role in the running of a news organization.

6. Which of the following is **not** criticized as a tabloid practice?
___ A. altering photos
___ B. paying sources
___ C. double checking sources
___ D. covering celebrity gossip
___ E. reporting on alien life forms

7. Which of the following is a critical violation of journalistic ethics?
___ A. distorting information
___ B. using fraud to gather information
___ C. presenting gossip as serious news
___ D. invading privacy
___ E. all of the above

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Final Assessment

8. Cameras in the courtroom are controversial because

___ A. only famous criminals attract media attention.

___ B. televised trials can be appealed by the defendant.

___ C. they may affect how the trial is conducted.

___ D. media coverage exposes the secrets of the criminal justice system.

___ E. cameras prevent a defendant's Sixth Amendment right to a speedy trial.

9. Urban legends usually do **not**

___ A. contain a moral.

___ B. describe events that have actually happened.

___ C. have many different versions.

___ D. express social anxiety about common fears, such as death, technology, and disease.

___ E. have elements of humor or horror.

10. Which would you **never** find in a questionable conspiracy theory?

___ A. some true statements

___ B. criticism of established claims

___ C. the belief that all government officials are corrupt

___ D. evidence proving the theory

___ E. allegations of a cover-up involving hundreds of people

Note: The correct answers to the above 10 multiple-choice questions provide a code for gaining entrance to the "Countdown to Doomsday" web pages. Place each answer in its proper box in the second column below.

The second column is a password for entering "Countdown to Doomsday" on Constitutional Rights Foundation's web site (www.crf-usa.org). Use your name as Student User.

Question #	1	2	3	4	5	6	7	8	9	10
Letter of answer										

Essay Questions

Write answers to any **two** of these essay questions:

1. Why is freedom of expression important? Give at least three reasons. Tell how it impacts your life.
2. When, if ever, should freedom of the press be restricted? Discuss three areas in which people have tried to restrict freedom of the press. Give arguments for and against restrictions in each area. Tell whether you favor or oppose restrictions in each area and why.
3. Discuss tabloid practices. Describe three particular tabloid practices. Explain why some reporters favor and others oppose each practice. Give reasons why you favor or oppose each practice.
4. Make up a conspiracy theory. Include elements found in questionable conspiracy theories. Conclude by analyzing the errors in your conspiracy theory.

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W.M. KECK FOUNDATION *Series*

CHALLENGE

NOTEWATION

THE CHALLENGE OF

Marshall Croddy
Charles Degelman
Bill Hayes

This Constitutional Rights Foundation publication is made possible by a generous grant from the W.M. Keck Foundation.

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ISBN: 1-886253-08-0

W.M. KECK FOUNDATION *Series*

The Challenge of Information is the second volume in the W.M. Keck Foundation Series, a series of educational publications that will address key challenges facing our democratic and pluralistic republic under the framework of the Constitution and its Bill of Rights.

The W.M. Keck Foundation, one of the nation's largest charitable foundations primarily supports higher education, medical research, and science. The Foundation also maintains a Southern California Grant Program that provides support in the areas of civic and community services, health care, precollegiate education, and the arts. The Board of Directors of Constitutional Rights Foundation is grateful to the W.M. Keck Foundation for its vision and generosity.

We gratefully acknowledge the following sources for photographs and editorial cartoons, which were used with permission:

Anderson, Kirk, St. Paul, MN: 21, 29, 30, 62

AP/Wide World Photo: 6, 10, 13, 16, 18, 19, 20, 28, 31, 42, 48, 51, 56, 57, 60, 61, 63, 66, 68, 69

Associated Press: 25, 35, 39, 40, 49

Borgman, Jim, King Features Syndicate. Reprinted with permission: 43

Corbis: 9, 14, 24, 32, 37, 50

Corbis/Bettman: 53

Handelsman, Walt, ©Tribune Media Services, Inc. All Rights Reserved. Reprinted with permission: 26

The Huntington Library, San Marino, California: 7

Markstein, Gary, *Milwaukee Journal Sentinel*: 33

Miller, Wiley, (Washington Post Writers Group © 1998. Reprinted with permission): 58

Stayskal, Wayne, *Tampa Tribune*: 41

UPI/Bettmann Newsphotos: 12

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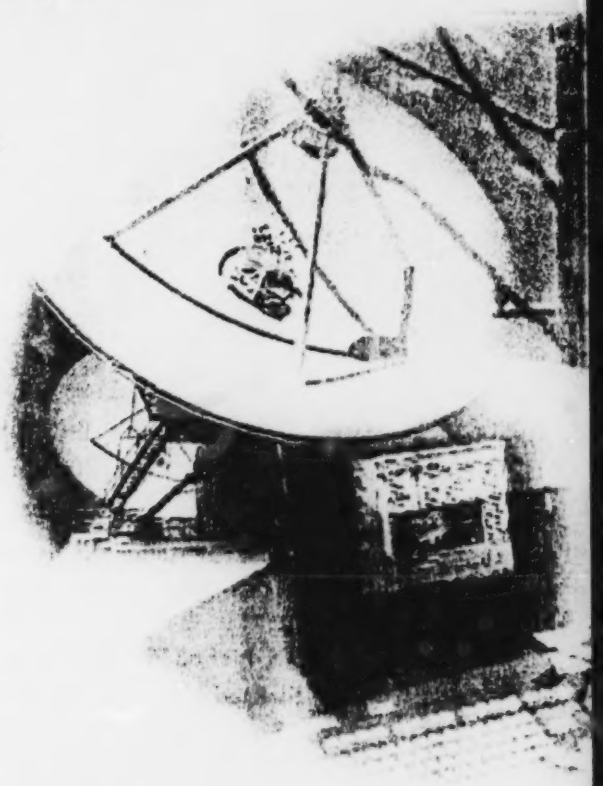
INTRODUCTION

For over 200 years, the Constitution and the Bill of Rights have guided America. The Constitution defined a federal form of government that has served us well. The Bill of Rights limited the powers of that government and endowed Americans with an unprecedented level of personal and political freedom.



Over the past two centuries, our constitutional republic has faced many challenges, such as war, internal dissension, and economic turmoil. As we enter a new millennium, America will face new challenges testing our unity, our principles, and our system of government.

It is the young people of today who will encounter those challenges. They will be tomorrow's voters, community leaders, politicians, and citizens. They will be asked to make decisions about issues unknown to us today, and the quality of those decisions will determine whether our constitutional system will endure. It is to these young people that this series is dedicated.

In this volume, *The Challenge of Information*, we consider the role of a free press in an age of media expansion and the need of citizens to critically evaluate the information they receive. Every passing year, new technologies bring the promise of greater information exchange and raise new issues about media responsibility and their impact on civic life in the United States and the world.

With these materials, we invite students to confront the difficult challenges of our new media age. First, we examine the unique constitutional protections afforded the press in our society and debates over restricting press freedom. Next, we consider what happens when a free press and the rights of the public to be informed come into conflict with the police powers of the state or the due process rights of those accused of crime. Then, we invite students to step into the shoes of the working press and tackle the tough issues related to journalistic responsibilities and ethics. Next, students examine the media-driven world of rumors and extraordinary claims to develop skills in evaluating the information they receive. Finally, we explore new frontiers in media and the policy debates over the Internet.

CHAPTER 1

A FREE PRESS

We live in the Information Age. Modern communications technology is bringing information to us faster and in greater volume than ever before. People can walk down the street and talk on cellular phones with people thousands of miles away. Cable and satellite television delivers the latest news from around the world. The Internet connects computers globally into one large information database. We live in a revolutionary age that is changing how we think and act.

A little more than 500 years ago in Europe, another information revolution took place. It was caused by a single invention—the printing press. This invention revolutionized the distribution of information as much as modern technology has revolutionized communication in our own age.

A printer in 15th century dress operates a replica of Johann Gutenberg's original printing press. Gutenberg published the first printed book, a Bible, in 1472.

Prior to the invention of the printing press, books were rare, newspapers did not exist, and only a privileged few knew how to read. The printing press made books, especially the Bible, available to common people. More and more people learned to read. Soon the first newspapers appeared. Ideas could now spread easily among people.

This development alarmed authorities in Europe because they feared people could be influenced by "wrong ideas." Monarchs tried to control printing presses and harshly punished any criticism of their rule. The Roman Catholic Church, the dominant church at the time, set up an Index of Forbidden Books and persecuted heretics, those who differed with church doctrine. But controlling the printed word wasn't easy, and powerful new movements grew, such as Protestantism, which challenged the authority of the Catholic Church.

In 1534 in England, King Henry VIII broke from the Catholic Church. He assumed leadership of the Church of England as well as of the state. To control the press, Henry relied on two main methods. First, he set up an elaborate licensing system. Only licensed printers could publish, and anything they printed had to be approved in advance. Second, the courts punished critics under the law of seditious libel. This law made it a crime to print "scandalous and malicious writing" that damaged the king's reputation. In effect, it outlawed printing criticism of the government.

Over the next century and a half, power shifted from the king to parliament. But the two methods of controlling the press remained in place. In 1644, English poet John Milton wrote a classic essay, *Areopagitica*, against the licensing system. Milton argued that it was improper to restrain printers from publishing. But Milton did not see anything wrong with punishing printers after the fact for seditious libel.

Milton's essay struck a chord with English sentiments. By 1695, the licensing system had ended. But seditious libel remained. And many even believed that this was consistent with a free press. According to Blackstone's *Commentaries* on English common law first published in 1765: "The liberty of the press is indeed essential to . . . a free state; but this consists in laying no previous restraints upon publications, and not in the freedom from censure for criminal matter when published."

The English colonies in America carried English law with them. The first American newspapers were controlled and censored by colonial governors. But, as in England, this gradually stopped.

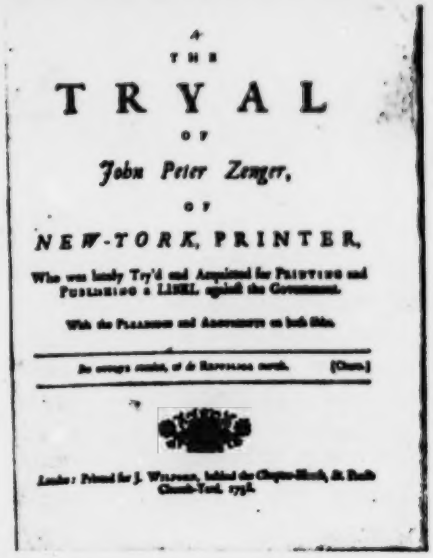
Unlike England, prosecutions for seditious libel ended in 1735 after the trial of John Peter

Zenger. As publisher of the *New York Weekly Journal*, Zenger was tried for seditious libel following his paper's attacks on the royal governor of New York. According to law at the time, it did not matter whether Zenger's words were true. If critical of royal authority, even true statements could be punished. In fact, the greater the truth, the greater was the libel. Zenger's lawyer, however, argued that the attacks were true and that therefore Zenger should not be convicted of libel. The judge ruled the lawyer's arguments out of order. But the jury disregarded the judge and acquitted Zenger. This trial marked a major victory for freedom of the press in the colonies.

In 1765, the English Parliament enacted the Stamp Act. This was a tax on all documents, including newspapers, in the American colonies. The English said they needed the tax to pay for troops protecting the colonies. But the colonists protested this "taxation without representation." Colonial newspapers viewed the Stamp Act as an attempt to stifle the increasingly combative colonial press. After the colonists boycotted English goods, Parliament repealed the Stamp Act in 1766. But England continued to assert its control over the colonies, which the colonies resisted. A string of crises ultimately led to the Revolutionary War.

During the Revolutionary War, Tom Paine's pamphlet *Common Sense*, which argued the case for the revolution, sold more than 100,000 copies. Newspapers informed colonists of battles and issues of the day. Colonists came to see newspapers as an integral part of life.

Following the revolution, newspapers engaged in intense political debates over the direction of the new nation. The most important of these early debates was whether the Constitution should be adopted. The press carried the arguments of the Federalists and Anti-Federalists, those for and against adoption of the Constitution. Seventy-seven essays, written anonymously by Alexander Hamilton, James Madison, and John Jay, argued the Federalist position in New York newspapers.


THE
TRYAL
OF
John Peter Zenger,
OF
NEW-YORK, PRINTER,
Who was lately Try'd and Acquitted for PRINTING and PUBLISHING a LIBEL against the Government.
With the Pleadings and Arguments on both Sides.
[Claim]

The Constitution was ratified, but several states had conditioned their approval on a bill of rights being added to it. This would ensure that the new government would not abuse the people's newly won freedom, such as freedom of the press.

When the first Congress met in 1789, James Madison, now a Congressman from Virginia, prepared a list of proposed amendments. Among them was one that guaranteed freedom of the press. Congress reworked Madison's proposals and sent them on to the states for ratification. Ten amendments, known as the Bill of Rights, were approved by the states in 1791. The First Amendment declared:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Thus the First Amendment enshrined in the Constitution religious liberty and all the various freedoms known collectively as freedom of expression. But the meaning of these freedoms was subject to interpretation. For example, did freedom of the press simply mean, as the English legal expert Blackstone believed, that the press should be free from prior restraint? This would mean that newspapers could print whatever they wanted, but could be punished after the fact under laws like the English law of seditious libel. Or did the First

The Bill of Rights guarantees freedom of speech and of the press. These freedoms protect expression in all media.

Amendment also protect the press from being punished after the fact?

The first challenge to freedom of the press arose just a few years after the adoption of the Bill of Rights. In 1798, with war seeming likely between the United States and France, Congress passed the Alien and Sedition Acts. The sedition law was similar to the English law of seditious libel. It required criminal penalties for anyone who expressed anything "false, scandalous, or malicious" against the federal government. Twenty-five Americans were arrested, including several newspaper editors. But the highly controversial acts expired in 1801, when Thomas Jefferson became president. Jefferson believed the acts violated the Constitution.

But the meaning of the Constitution—and freedom of the press—would be determined by the U.S. Supreme Court. This panel of justices, appointed for life, is the highest court in the land. The court decides cases appealed to it from lower courts. It interprets what the Constitution and other federal laws mean. Its decisions can actually overturn laws if they conflict with the Constitution. The court votes on each case and one justice is selected to write the court's opinion, stating the reasons for its decision. If some justices disagree with the opinion, they write dissenting opinions. The court rules on dozens of cases each year. The majority opinions in these cases set precedents, rules of law that lower courts must follow. Over time, these precedents have grown into a body of constitutional law.

The court never ruled on the Alien and Sedition Acts. During their short life, no one appealed a conviction to the court. In fact, the Supreme Court did not make any important rulings on free expression until early in the 20th century. The main reason was that the First Amendment only applied to Congress and, except for the Alien and Sedition Acts, Congress did little to suppress free expression.

During the First World War, however, Congress passed several laws aimed at punishing those who made statements that interfered with the war effort. In a series of cases appealed by defendants convicted of writing articles against the war, the Supreme Court upheld these laws as not violating the First Amendment. In *Schenck v. U.S.*, a unanimous court ruled that the defendant's anti-draft pamphlet constituted a "clear and present danger" to the security of the United States. In *Frowerk v. U.S.*, a unanimous court held that the defendants' editorials against the draft might "kindle a flame" of draft resistance. In *Abrams v. U.S.*, the court upheld the conviction of defendants who distributed leaflets supporting the Russian Revolution, which had taken place during the war. A court majority ruled that the leaflets tended to undermine the war effort. But the *Abrams* case is known for the strong dissenting opinion of justices Oliver Wendell Holmes and Louis Brandeis in support of free expression. The dissent argued that free expression could only be curtailed if it presented an "imminent. . . danger of immediate evil," which the "silly leaflet" did not. Over the course of this century, the Supreme Court grew more protective of free expression, and the dissenting view in *Abrams* became the majority view.

In the 1925 case of *Gitlow v. New York*, the Supreme Court ruled that the First Amendment's guarantees of freedom of speech and of the press applied to the states as well as to the federal government. The court's decision rested on its interpretation of the due process clause of the 14th Amendment, adopted following the Civil War. This clause declared that no state could "deprive any person of life, liberty, or property, without due process of law. . . ." The court ruled that freedom of expression was one of the liberties protected by this amendment.

Since then, the Supreme Court has developed a large body of constitutional law on freedom

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of the press. Although the law on freedom of the press is complex, many basic principles have emerged. The court has ruled that the First Amendment protects against almost all prior restraints on the press. It also protects the press from being punished after the fact for what it prints. The court has rejected Blackstone's belief that a press can be free if it is subject to punishment for what it prints. It has recognized that the threat of punishment—from imprisonment, fines, or even lawsuits—can stifle freedom of the press. Even so, the court has never declared freedom of the press to be absolute. It has placed limits on the press in certain specific areas, such as national security, obscenity, and libel. But the court has emphasized that freedom of the press is extremely important and cannot be limited in most cases.

In its many decisions, the Supreme Court has stated various reasons why freedom of expression is so important. A free press plays a watchdog role on government, exposing misdeeds, mistakes, and mishaps that officials would like to keep quiet. It also ensures that citizens have access to all points of view and can make informed political decisions. By letting every idea be examined and questioned, freedom of expression doesn't just help the democratic process; it helps scientists, inventors, and ordinary people find the truth. Further, freedom of speech and the press serves as a "safety value," allowing people to vent their anger and frustration with government and lessening the likelihood that they will foment revolution or commit terrorist acts. Finally, freedom of expression helps people develop as individuals by allowing them to examine and express different thoughts and opinions. For all these reasons, the court has recognized that freedom of expression is one of the most basic rights of a free people.

POINTS OF INQUIRY

1. What are the two basic methods used by Henry VIII to of control the press?
2. What is freedom of the press?
3. Do you think freedom of expression is important? Explain.

Limits on Freedom of the Press

The First Amendment to the U.S. Constitution declares that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . . ." Despite the absolutist language of the First Amendment and the high value Americans place on freedom of expression, the Supreme Court has never ruled that freedom of speech and the press are absolute. The court has stated that it looks unfavorably on censorship, but it has refused to rule it out entirely. The areas that most often cause conflicts with a free press are national security, obscenity, defamation, and privacy.

All forms of peaceful protest are safeguarded by the First Amendment. Here, former soldiers lead a march against U.S. involvement in Vietnam.

NATIONAL SECURITY

In our history, there have been various attempts to limit freedom of the press on grounds of national security. These attempts have usually occurred when war threatens or when agents of some foreign power seem intent on overthrowing our republic. The limits are often on those inciting violent revolution or somehow interfering with the war effort. Proponents argue that these limits are a small price to pay for ensuring the safety of our republic. Opponents often argue that the limits are unnecessary and unduly abridge our freedom.

In 1798 Congress enacted the Alien and Sedition Acts, which required criminal penalties for anyone who expressed anything "false, scandalous, or malicious" against the federal government. But these laws were never challenged before the Supreme Court.

During World War I, Congress passed laws against distributing material that would interfere with our war effort. Charles Schenck, general secretary of the American Socialist Party,

was convicted for sending leaflets to draft-age men urging them not to "submit to intimidation" but to "petition for repeal" of the draft law. Schenck argued that the First Amendment gave him a right to send the leaflets. A unanimous Supreme Court disagreed. According to the court, the test was "whether the words . . . are used in such circumstances as to create a *clear and present danger*" to national security. It said that the government was justified in arresting Schenck because, "When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured . . . ."

A reader browses through a communist bookstore in Washington, D.C. The writings of all political thinkers are protected by the First Amendment.

In 1939, with World War II looming, Congress passed the Smith Act, which made it a crime to advocate overthrowing the government by violence. This act was used to prosecute members of the Communist Party in the 1950s when America engaged in the Cold War with the Soviet Union. In 1957, however, the Supreme Court reversed the convictions of 14 party members in *Yates v. U.S.* The court said that, to meet the clear-and-present-danger test, the government had to prove that the defendants advocated direct illegal action. This decision, in effect, ended prosecutions under the Smith Act.

OBSCENITY

Another area that government has long attempted to suppress is obscenity and pornography. People have argued that graphic sexual material does not deserve constitutional protection. They believe it pollutes our society, corrupting children, distorting attitudes and values, and causing an increase in rape and sexual violence. Others disagree. They argue that adults should be free to read or view whatever they want as long as it harms no one else.

In 1873, Congress passed the first federal obscenity law. Using its power to regulate the post office, it banned the mailing of "every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance." For years, however, obscenity regulation rested almost exclusively with local censorship review boards, which individual communities set up. These boards could ban any objectionable book, magazine, or film. Police could confiscate banned material and arrest the seller. Before World War II, almost any work describing a sexual act might be banned. Many places tried to ban books that are today available at any bookstore—books such as James Joyce's *Ulysses*, D.H. Lawrence's *Lady Chatterly's Lover*, and the novels of Henry Miller.

It wasn't until 1957 that the Supreme Court ruled that government could ban obscenity. Then it embarked on the difficult task of defining it. Finally, by a 5-4 vote in the 1973 case of *Miller v. California*, the court developed a three-part definition of obscenity. To be obscene, the court said, a work must meet all three of the following tests:

1. "Taken as a whole," it must appeal to "a prurient interest in sex," which the court had earlier defined as "having a tendency to excite lustful thoughts."
2. It must "portray sexual conduct in a patently offensive way." This limits obscenity to hard-core pornography.
3. "Taken as a whole," it must lack "serious literary, artistic, political, or scientific value."

With one exception, this means that government cannot ban offensive material unless it's obscene. The exception is broadcasting, which is overseen by the Federal Communications Commission (FCC). The FCC has regulations against "indecent material," particularly during hours when children may be listening. These regulations became the subject of a comedy routine by George Carlin titled "Filthy Words." It contained seven words that, according to Carlin, were not allowed on the air. When a radio station one afternoon played Carlin's album, the FCC reprimanded the station following a listener's complaint.

The station appealed to the Supreme Court. Based on Supreme Court standards, it was clear that Carlin's routine was not obscene. The station argued that the First Amendment protected airing it. In 1978, in a 5–4 decision in *FCC v. Pacifica Foundation*, the Supreme Court disagreed. It upheld the right of the FCC to regulate "indecent material" broadcast on the publicly owned airwaves. The court majority pointed out that broadcasting was different from other media because children had ready access to it and it intruded into people's homes the moment a radio or television set was turned on.

In the Communications Decency Act of 1996, Congress attempted to outlaw indecency in a new media—the Internet. But in 1997 in *Reno v. American Civil Liberties Union*, the Supreme Court ruled 7–2 that Congress could only outlaw obscenity (as defined by *Miller*) on the Internet. The court saw the Internet as different from broadcast media.

DEFAMATION

Courts have long recognized that the First Amendment should not protect someone from spreading lies. If a newspaper, for example, falsely reports that you are a convicted murderer, you could sue the newspaper for defamation.

Defamation is injuring someone's reputation with a false statement. If the statement is spoken, the defamation is called **slander**. If it is written or in the mass media, it is called **libel**. To win a traditional libel suit against an individual, you have to show that a false statement damaging your reputation was published by the defendant. You don't have to prove that the defendant knew it was false, should have known it was false, or was careless in any way. That doesn't matter.

In 1964 in *New York Times v. Sullivan*, the Supreme Court ruled that the First Amendment required changes in traditional defamation law when public officials, such as elected officials or important government employees, sue for defamation. Public officials must prove "actual malice," that is, that the defendant either knew the statements were false or had a reckless disregard of the truth. Without this rule, the court believed, the threat of defamation suits could inhibit criticism of public officials.

An adult theater in Times Square, New York City. Freedom of expression often comes into conflict with obscenity laws.

In subsequent cases, the court extended the actual-malice requirement to suits by public figures as well as by public officials. It also required that private citizens who sue the press must at least prove negligence.

PRIVACY

Another conflict with freedom of the press comes in the area of privacy. This is a relatively new area of the law. Most states have adopted four different types of lawsuits for invasion of privacy: intrusion, private facts, false light, and appropriation of likeness.

Of the four, the oldest is **appropriation of likeness**. Most states have long permitted people to sue when someone without permission uses their name or picture to advertise a product. In a typical lawsuit, a celebrity might sue a company using the celebrity's photograph in an advertisement without getting consent.

Intrusion focuses on how the press gathers information. If journalists wiretap phones or lie to gain entrance to someone's house, they can be sued. Suits are limited to highly offensive intrusions done without the person's consent. Journalists cannot usually be sued if they remain in public places. For example, a photographer who takes pictures from a public sidewalk cannot normally be sued.

Principal Robert Reynolds of Hazelwood East High School, Missouri. His censorship of the school newspaper led to an important Supreme Court decision.

Private facts involves the disclosure of true, but private information. Because a free press could not survive if constantly threatened with lawsuits over truthful information, these types of suits are severely restricted. The disclosure must be highly offensive, not a matter of public record, and not at all newsworthy. For example, in 1975 in *Cox Broadcasting v. Cohn*, the Supreme Court overturned a judgment against a news agency for revealing the name of a rape victim. Georgia state law prohibited publishing these names. But the court ruled that the media could not be prohibited from reporting what was a matter of public record.

False light is publicity that distorts a person's character. Like defamation, it is false, but it doesn't necessarily damage a person's reputation. For example, a famous baseball pitcher once sued and won when a forthcoming book falsely portrayed him as a war hero.

SCHOOL NEWSPAPERS

Public-school newspapers present special problems. Are these papers forums for student opinions and protected by the First Amendment? Or can principals censor them? The Supreme Court dealt with these questions in 1988 in *Hazelwood v. Kuhlmeier*. In this case, a high school principal removed from the school newspaper two pages containing articles that he objected to. One involved three pregnant students who discussed their sexual experiences and birth control. The principal believed the students could be identified even though the article didn't use their real names. He also thought the subject matter was inappropriate for younger students. A second article included a student's reaction to her parents' divorce. She complained that her father spent too little time with the family. The principal felt the newspaper staff had failed to follow proper journalism standards by not giving the father a chance to respond.

Members of the newspaper staff sued the school district, claiming their First Amendment rights had been violated. The students' lawyers argued that the paper was "a forum for public expression" and a way for students to express their ideas and opinions. They referred to school district policy promising "free expression" and "diverse viewpoints" in student publications.

The school district's lawyers pointed out that the paper was part of a journalism class, designed to carry out the school's curriculum. As such, they argued, the principal had the authority to decide what was appropriate.

In a 5-3 decision, the court held that the principal did not violate the students' First Amendment rights. Writing for the majority, Justice Byron R. White drew a distinction between two forms of student expression on a public school campus. School authorities may not stop the "personal expression" of students unless it disrupts the school or violates the rights of others. The school may, however, control student expression occurring within such school-sponsored activities as assemblies, drama productions, and publications that are part of the curriculum. He found that the purpose of this school's newspaper was to teach students about journalism and writing. It was therefore part of the school curriculum and could be censored by the principal. But Justice White said any censorship must be related to legitimate educational concerns.

POINTS OF INQUIRY

1. The article mentions four areas—national security, obscenity, defamation, and privacy—that often cause conflicts with freedom of the press. What are the conflicts in each of these areas?
2. Do you think the press should be limited in these areas? Explain.
3. Do you agree with the court's decision in *Hazelwood v. Kuhlmeier*? Why or why not? What do you think the rule should be for student-run newspapers at public colleges? Explain.

Revolution in Libel Law: *New York Times v. Sullivan* and Its Aftermath

The roots of libel law extend to 13th century England. If someone damaged another's reputation by printing falsehoods, that person could be sued for libel. In some cases, the person could even be convicted for the crime of libel. This was part of the law that English colonists carried to the New World.

In traditional libel law, the person suing only had to prove three things: (1) The defendant had published a statement; (2) the statement damaged the person's reputation; and (3) the statement was false. The person did not have to prove that the defendant intentionally lied, was careless, or was somehow at fault. That didn't matter. Libel was what is known as a "strict liability" action. This had been the law for hundreds of years.

In 1964 in the landmark case of *New York Times v. Sullivan*, the U.S. Supreme Court overturned much of traditional libel law. This case arose during the civil rights movement in the South. The *New York Times* printed a full-page advertisement calling for donations to help peaceful protesters at Alabama State College in Montgomery. The ad charged that authorities were causing a "wave of terror." It supported this statement by claiming that, among other things, police had ringed the college campus, padlocked the dining hall, helped bomb Martin Luther King's home, and arrested King seven times.

These claims weren't true. The police, though out in great numbers, did not ring the campus. Nor did they padlock the dining hall. King's house was bombed, but not by the police. King was arrested four times, not seven.

L.B. Sullivan, the police commissioner of Montgomery, sued for libel. Although the ad did not mention him, he said it ruined his reputation. An Alabama jury agreed and awarded him $500,000. The Alabama Supreme Court upheld the award.

A unanimous U.S. Supreme Court overturned the jury's verdict. The opinion of the court written by Justice William Brennan set a new constitutional standard for public officials suing the press for libel. From now on, they must prove "that the statement was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." Brennan reasoned that if critics of officials could not make honest mistakes, then free debate would suffer. He cited James Madison, the author of the First Amendment, who said that "erroneous statement is inevitable in free debate, and . . . it must be protected if the freedoms of expression are to have the 'breathing space' that they need . . . to survive." This rule provided the "breathing space" for free expression, which the First Amendment guaranteed.

The U.S. Supreme Court building in Washington, D.C. The court interprets the meaning of the U.S. Constitution.

As with any dramatic change in the law, much remained to be clarified. For example, who qualified as "public officials"? In a later case, the Supreme Court defined public officials as "government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of government affairs." Lower courts have interpreted this to include elected officials, judges, prosecutors, public defenders, police officers, county clerks, school board members, principals, and high-ranking military officers, among others.

Jerry Falwell, a well-known fundamentalist preacher, sued *Hustler* magazine for running a highly offensive parody of him.

In 1967 in *Curtis Publishing Co. v. Butts*, the court extended the actual malice requirement to "public figures," people who actively engage in important public issues. The court reasoned that these people have pursued a public life, and they have access to the media to refute false charges. In later decisions, the court identified the two main types of public figures: (1) celebrities who are known almost everywhere and (2) people who have "voluntarily injected themselves into a public controversy in order to influence the resolution of the issues involved." The court has mentioned a rare third type—the involuntary public figure. For example, a criminal defendant at trial or an air traffic controller on duty when a plane crashes may be considered public figures. But the court has emphasized this third type is extremely narrow. For purposes of libel law, major corporations are usually considered public figures.

In a 1971 decision, several justices argued that malice should be required in all cases involving matters of public concern, even if the person suing was not a public official or figure. The justices contended that this would ensure "robust debate on public issues, which is embodied in the First Amendment . . . ."

But in 1974 in *Gertz v. Robert Welch, Inc.*, the court backed away from requiring someone not a public figure or official to prove malice in libel actions. The case involved an article published in *American Opinion*, a magazine of the John Birch Society, a right-wing anti-communist group. The article claimed that attorney Elmer Gertz was part of a conspiracy to discredit local police and create a national police force, which would help establish a communist dictatorship in America. Specifically, the article charged Gertz with framing a police officer who was convicted of murder. The article said Gertz had a police file so large that it took "a big Irish cop to lift." It charged he had been an official of the Marxist League for Industrial Democracy and was a "Leninist" and "Communist-fronter."

These charges were false. Gertz had not played any role in prosecuting the police officer. He had represented the murder victim's family in a civil suit against the officer. Gertz had no police record, and he was never a member of the Marxist league. Nor was there any basis for calling him a "Leninist" or "Communist-fronter."

Gertz sued for libel and a jury awarded him $50,000. But the trial judge overturned the award, stating Gertz had failed to prove actual malice. The judge said this was necessary, even though Gertz was not a public figure, because the case involved an issue of public concern.

The Supreme Court by a 5-4 vote reversed the trial judge's decision. It stated a private citizen did not have to prove actual malice. Unlike a public figure or official, a private citizen has neither chosen a public life nor access to the media to rebut false charges. Further, the court found no basis for calling Gertz a public figure. In his lawsuit, he had never discussed the case with the press and was never quoted in the media.

Then the court in *Gertz* added a new wrinkle to libel law: It announced that even a private citizen in a libel action must prove some wrongdoing on the part of the media. The court left it up to each state to decide the amount of wrongdoing. It could be negligence or even actual malice—just so long as the state did not "impose liability without fault." The court had taken away the strict liability of traditional libel law.

In another case, the Supreme Court made it clear that public figures could not circumvent the malice requirement. *Hustler*, an adult magazine, ran a series of parodies in the 1980s. One told of the supposed first sexual experience of the Reverend Jerry Falwell, a famous fundamentalist minister. Angered by this obviously false depiction, Falwell sued *Hustler* magazine for libel, invasion of privacy, and intentional infliction of emotional distress. The judge threw out the invasion of privacy claim. The jury found against Falwell on the libel claim because the parody was clearly not meant to be taken as the truth. But the jury awarded Falwell $200,000 for intentional infliction of emotional distress. In 1988 in

Hustler Magazine v. Falwell, a unanimous Supreme Court overturned the jury's verdict saying that a public figure could not recover for intentional infliction of emotional distress "without showing in addition that the publication contains a false statement of fact which was made with 'actual malice.'" The court went on to say: "Were we to hold otherwise, there can be little doubt that political cartoonists and satirists would be subjected to damages awards without any showing that their work falsely defamed its subject." The court ruled that the parody of Falwell, like most parodies, did not contain factual statements that any reasonable person would take seriously.

POINTS OF INQUIRY

1. What is the purpose of libel suits? How might they stifle free debate?
2. What did the Supreme Court decide in *New York Times v. Sullivan*? Do you agree with this decision? Why or why not?
3. What are "public officials" and "public figures"?

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The People's Right to Know

In March 1975, a prisoner committed suicide at the Alameda County Jail in the San Francisco Bay area. The Greystone section of the jail, where the suicide took place, had a terrible reputation. Three years before, a federal judge had found its conditions "shocking and debasing." In local television station KQED's report on the suicide, a psychiatrist assigned to the jail deplored its conditions. KQED, which had taken its cameras without incident into other corrections facilities, requested permission to visit and film Greystone. The sheriff refused, saying his policy was to deny access to all news media. Jail rules further cut off access to prisoners, requiring officials to inspect all outgoing mail (except to attorneys) and forbidding any mention of actions by corrections officers.

KQED filed a lawsuit in federal court. It sought a court order permitting it to enter and film Greystone. It alleged that the sheriff had provided "no means by which the public may be informed of the conditions prevailing in Greystone or by which prisoners' grievances may reach the public." It claimed that the public had a right to know what was going on in Greystone and that the sheriff's policy of denying access violated the First Amendment.

Does the First Amendment grant a right to know? If so, how far does that right extend?

The First Amendment says, "Congress shall make no law . . . abridging the freedom of speech, or of the press . . . ." The words "right to know" are not mentioned in the First Amendment or anywhere else in the Constitution. But James Madison, the author of the First Amendment, recognized that a government of the people (what he called "popular government") needed information to reach the people ("popular information"). Without information, people couldn't make informed decisions. In Madison's words, "A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both."

Newspapers have traditionally played an important role in informing the public.

In its many rulings interpreting the First Amendment, the U.S. Supreme Court has recognized that a democratic society needs a free flow of information. In a series of cases, the court has interpreted the First Amendment to bar censorship except in extreme situations.

NEAR V. MINNESOTA

In 1931, the Supreme Court decided a landmark censorship case–*Near v. Minnesota*. Minnesota officials had shut down *The Saturday Press*, a weekly newspaper. Produced during Prohibition, when federal law outlawed the distribution and sale of liquor, the paper routinely attacked official corruption. It often made wild accusations about officials taking bribes to let liquor flow into the county, and it regularly included anti-Semitic diatribes about gangsters and officials. The newspaper upset many people. Some accused it of taking bribes–in the form of advertising money–to keep people's names out of the paper. After nine issues, the authorities went to court to shut the paper down under a public nuisance law. This is a law allowing citizens to file lawsuits to stop activities that are harmful or unsafe for the public as a whole. The court ordered the newspaper not to publish any more "malicious, scandalous and defamatory articles."

On appeal, the Supreme Court held unconstitutional the public nuisance law as applied in this case because it allowed a prior restraint on the press. The court declared that one of the main purposes of the First Amendment's freedom of the press was to prevent "previous restraints or censorship." It emphasized the importance of newspapers exposing official wrongdoing, especially in the 20th century when government has grown more complex and more difficult for citizens to monitor.

The court recognized that *The Saturday Press* made wild accusations. But it said that anyone falsely accused by the newspaper could file a lawsuit for libel. The court stated that prior restraint was inappropriate in this case, but it did not rule it out in all cases. It said, for example, that in wartime, no "one would question but that a government might prevent . . . the publication of the sailing dates of transports or the number and location of troops."

THE PENTAGON PAPERS

In 1971 during the Vietnam War, another prior restraint case arose. The *New York Times* had received top-secret government documents about the Vietnam War and started publishing excerpts. The documents, known as the "Pentagon Papers," a 7,000-page history of America's involvement in Vietnam up to 1968, had been written by members of the Defense Department. One of the authors, Daniel Ellsberg, had grown disillusioned with the war and turned the documents over to the *Times*.

The government immediately went to court to stop publication. A federal judge in New York issued a temporary order for the *Times* to stop publishing the excerpts. Meanwhile, the *Washington Post* received copies of the Pentagon Papers and started publishing passages. A trial and an appeals court in Washington refused to issue an order stopping the *Post*. With such critical First Amendment and national security issues at stake, the case reached and was decided by the Supreme Court in two weeks. This process would normally take more than a year.

In a 6-3 decision in *New York Times Co. v. U.S.*, the court ruled that the government had not met the "heavy burden of showing justification" for censorship. Two justices felt that a prior restraint of the press should never be allowed. Four others took the position that prior restraint should be used only when publishing the information would *immediately and clearly harm* the security of the nation, which they did not believe would happen in this case. The three dissenters feared that publishing the Pentagon Papers could harm American soldiers fighting in Vietnam as well as

CIVIL CONVERSATION

CELEBRITIES AND PRIVACY

An entire industry of celebrity journalism has developed. Devoted to satisfying the public's interest in celebrities, these magazines, newspapers, and television programs go well beyond providing basic fan information. They trade in candid photos and intimate stories about romances, failing marriages, and drug abuse.

Stars often complain about photographers hounding them and about seeing their intimate secrets published in the media. Do celebrities have a right to privacy? According to freelance celebrity photographer Russell Turiak, "There's a separate law of privacy for celebrities and private people. When you're a celebrity, you sign away your right to privacy." Is he right?

People can sue if the media reveal highly offensive secrets about them. But there's an exception if the secret is newsworthy. Because the First Amendment provides for freedom of the press, the media cannot be prevented from revealing newsworthy items. The question is: Is everything about a celebrity newsworthy?

People can also sue if someone intrudes into their private space in a highly offensive manner. This could apply to photographers taking pictures of celebrities. But the celebrities must be where they have a "reasonable expectation of privacy." This would exclude most public places. It may even exclude cases of photographers on public property taking pictures of celebrities on private property. Turiak thinks it does: "When they say, oh, they shot right in the window of my house, well, why didn't you pull your shades down?"

Many celebrities call for new laws: Against photographers with high-powered lenses taking pictures of private property without permission. Against photographers waiting in residential neighborhoods. Against the media revealing shockingly personal stories. Senators Orrin Hatch (R-Utah) and Dianne Feinstein (D-California) have proposed a federal law against celebrity photographers who "persistently follow or chase" a subject.

Some experts say existing laws can handle the most serious intrusions. According to ABC Legal Editor Arthur Miller, "In many, many instances, these photographers are engaged in other forms of illegal activity. They're trespassing, they're assaulting, they're battering, they're harassing, they're stalking. And I think . . . more celebrities . . . [should have] the gumption to bring lawsuits based on these other theories . . . ."

Peter Hitchens of the *London Daily Express* warns against taking additional action to protect the privacy of celebrities:

> [Y]ou may have to put up with the supermarket tabloids telling some pretty . . . peculiar and unwelcome . . . stories. But you also have the complete freedom of the *New York Times*, the *Los Angeles Times*, and the *Washington Post* to investigate wrongdoing up to the highest level. . . . [T]hese things are indivisible, and if you start restricting the freedom of people to report and take photographs, you start walking down a very, very dangerous road."

But Cass R. Sunstein, a University of Chicago Law School professor, thinks placing some curbs on celebrity journalism would help our democracy:

> A democracy is badly served when the media focus so intensely on the personal joys and tragedies of famous people. This kind of "news" crowds out more serious issues, and there is an important difference between the public interest and what interests the public.

The federal government has closely guarded the secret of the hydrogen bomb.

prolong the war by making negotiations with the enemy more difficult.

THE H-BOMB CASE

A few years later in 1979, the government again went to court to censor a publication. *The Progressive*, a small-circulation magazine, was going to publish a story on how to make a hydrogen bomb, the most powerful weapon of mass destruction known to humans. Under the Atomic Energy Act, the federal government had for years classified as "restricted data" any information, regardless of source, about the design, manufacture, or use of atomic weapons. This law allowed the government to keep secret almost anything related to the making of atomic weapons. With about 20 nations on the verge of developing nuclear weapons, the government had a strong interest in seeing that secret information did not fall into foreign hands.

The Progressive article had begun as part of a series informing readers about nuclear weapons so they could better understand such public issues as the nuclear arms race and underground testing. When the author started researching, he ran into a wall of official secrecy. So he attempted to find what he could without government help. He spent months reading physics books and magazine articles in libraries and museums. He interviewed scientists and weapons experts. All the information for the article came from sources open to every citizen.

The government argued that the source of the information didn't matter. The secretary of state warned that publishing the article would "substantially increase the risk that thermonuclear weapons would become available at an earlier date to those who do not have them now." Specifically, the government charged that the article would disclose the most effective way to trigger an H-bomb. *The Progressive* responded that scientists all over the world knew about the trigger, as the author had studied information readily available.

The federal trial court ordered *The Progressive* not to print the article. The judge stated that he believed "publication of the Restricted Data in the . . . article will result in direct, immediate and irreparable damage to the United States . . . ." *The Progressive* appealed the order, but before the appeals court could hear the case, the government dropped it. Another publication had printed an article with much the same information. *The Progressive* ran its article, and the courts never decided whether prior restraint was constitutional in this case.

ACCESS TO GOVERNMENT

In the censorship cases discussed above, the government tried to stop publishers from printing information that they already had. The publishers argued that the First Amendment gave them the right to print it. These cases are different from the jail case described at the beginning of this article. In that case, television station KQED did not already have information. It wanted the sheriff to let it visit the jail and film. It argued that the First Amendment gave the public a right to know the conditions in the prison.

In 1978, the U.S. Supreme Court decided this case–*Houchins v. KQED*. With two members not participating, the court decided 4-3 against KQED. The court stated that the First Amendment does not give "a right to have access to particular government information." It recognized that "conditions in jails and prisons are clearly matters 'of great public importance.'" But, it said, "the media are 'ill-equipped' to deal with problems of prison administration." The court emphasized that investigative arms of government like grand

juries and legislative committees could examine these problems better. It added that the media had a right to gather information and could pursue the story by interviewing former inmates, jail visitors, jail personnel, and government inspectors.

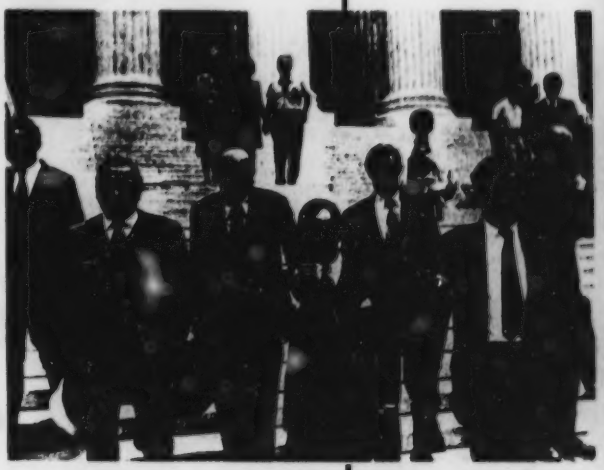
It concluded that the media have "an undoubted right to gather news 'from any source by means within the law,' . . . but that affords no basis for the claim that the First Amendment compels others—private persons or governments—to supply information." The three dissenters stressed the importance of the public knowing how officials were treating prisoners. They argued that an "official prison policy of concealing such knowledge from the public by arbitrarily cutting off the flow of information at its source abridges the freedom of speech and of the press . . . ."

Two years later, the Supreme Court reached a surprisingly different conclusion in *Richmond Newspapers v. Virginia.* In this case, a trial judge, acting on a request by the defendant and without objection from the prosecution, had ordered the courtroom closed to the public. Newspapers appealed this order. With one justice not taking part, the Supreme Court ruled 7-1 that the First Amendment gives the press and public a right to attend criminal trials. The court held this right was not absolute, but could only be restricted in special circumstances. The court stressed that courts, unlike prisons, were traditionally open to the public and that open trials helped maintain public confidence in the justice system.

Justice John Paul Stevens, who had dissented in *Houchins*, hailed this decision: "This is a watershed case. Until today the court has accorded virtually absolute protection to the dissemination of ideas, but never before has it squarely held that the acquisition of newsworthy matter is entitled to any protection whatsoever."

Stevens clearly hoped the court would expand on the right to acquire information. But thus far, except in cases dealing with courtrooms, it has not. Some commentators believe that the court will be reluctant to grant a right to access information outside the court system, because this right would encroach on the other branches of government. They say the court will leave access to these branches up to Congress and state legislatures.

Indeed, Congress and state legislatures have enacted many laws granting access to information. The Freedom of Information Act (1966) opens to the public much federal paperwork. Most states have passed similar "open records" laws. The federal government and all 50 states have enacted "open meeting" laws requiring that most meetings by commissions and other agencies be open to the public. Some states have enacted laws granting the media and public access to prisons.



Attorneys for the *New York Times* leave the Supreme Court after presenting arguments in the Pentagon Papers case.

POINTS OF INQUIRY

1. Why do you think the Supreme Court has interpreted the First Amendment to ban censorship under most circumstances? In what circumstances, if any, do you think censorship should be allowed?
2. What did the court decide in *Houchins v. KQED*? Do you agree? Why?
3. In your opinion, does the Constitution give the people a "right to know"? Explain.

Press Freedom vs. Military Censorship

Throughout the Persian Gulf War of 1991, Iraqi President Saddam Hussein permitted only one foreign journalist to remain in Baghdad–CNN's veteran war correspondent Peter Arnett. Arnett had to obey Iraqi press-censorship rules. "From the beginning," Arnett later revealed, "I accepted the constraints that the Iraqis laid down. They said, 'Anything you do, you put on paper. We go over it, and we alter it. We change it if we wish to, and that's what you're going to use.'" Once the war began, the Iraqi government selected Arnett's reporting locations and monitored his interviews. As a result, many of Arnett's stories dwelled on bombing damage to civilian areas and the suffering of the Iraqi people.

Correspondent Peter Arnett has covered many wars. Here, he marches with troops in Vietnam.

Many Americans, including members of Congress and even fellow journalists, severely criticized Arnett for reporting material provided or censored by Iraq. But at the same time, hundreds of American reporters sent to Saudi Arabia had to deal with attempts by the U.S. military to control information.

PRESS VS. MILITARY

During the short, successful Spanish-American War of 1898, reporters, if anything, led cheers for the military. Throughout World War I, journalists considered themselves part of the war effort, not independent observers. This pattern of press and military cooperation continued through World War II.

But starting with the Korean War and then Vietnam, the press took an increasingly independent and critical view of the military. In Vietnam, more than 2,000 accredited reporters roamed freely throughout battle zones interviewing ordinary soldiers rather than relying on the often rosy picture of the war presented by the Pentagon. There were few incidents of news stories endangering U.S. troops or military operations. But negative press accounts fueled anti-war feelings back home.

When the war in Southeast Asia finally ended, many in the military blamed the press for "losing Vietnam." Some Pentagon officials resolved to restrict press coverage of future American wars. In 1983, the Pentagon barred all journalists from the initial invasion of Grenada. Then in 1989, the Pentagon selected a dozen reporters to cover the invasion of Panama and restricted them to an airport in Panama until nearly all fighting ended.

PRESS POOLS

When U.S. military units went to Saudi Arabia in the fall of 1990, about 1,000 journalists eventually joined them. The Pentagon set ground rules for the press. It authorized about a dozen "pools," of up to 18 reporters each, to visit U.S. military units in the field. News organizations selected reporters for each pool and military escorts accompanied them into the field. Pool reporters distributed their dispatches to their news organizations and to all other non-pool reporters who were required to remain in Dhahran, Saudi Arabia, near the Kuwait border, or in Riyadh, the capital of Saudi Arabia.

The Pentagon accredited all American journalists and required them to observe the following battlefield press rules:

1. No reporters could visit any U.S. military unit or travel outside of Dhahran or Riyadh except in a press pool.
2. No pool was permitted in the field without an escort, usually a U.S. military public-affairs officer (PAO).

3. No interviews of U.S. military personnel were permitted without an escort present.

4. All pool dispatches must first pass through the "military security review system." (PAOs at each pool location reviewed all dispatches and could delete or change any "military sensitive information." Reporters could appeal any censorship to the military pool coordinating office in Dhahran and then to the Pentagon.)

5. Violations of the above rules could result in arrest, detention, revocation of press credentials, and expulsion from the combat zone.

The Pentagon explained that these rules protected American troops, military operations, and the journalists themselves. One high Navy official, Rear Admiral John Bitoff, remarked: "There is a clear and present danger in today's instant-communications age, which may put our troops at risk. Our enemies are watching CNN-TV."

Most news organizations and journalists complied with the Pentagon's pool-and-review system. But the Pentagon heard many complaints—not about outright censorship, but about the military's strict control of the press. Reporters protested that escorts intimidated soldiers being interviewed, sometimes even speaking for them. The media objected when the military kept pool reporters from visiting scenes where Americans had been killed.

The press complained most often about delays in getting dispatches from the field through the military-review system. Many pool reporters writing late-breaking stories found their stories hopelessly out-of-date by the time they finally reached the United States. In some instances, stories were lost by the military-communications network.

Soon after the Pentagon's pool-and-review system went into operation, some news organizations filed a lawsuit charging the military with violating the First Amendment guarantee of freedom of the press. They argued that a free press should have access to a war zone, because the people have a right to know what is happening. In previous cases, the Supreme

Court has refused to allow the press access to prisons, but has granted the press a right to cover trials. The right of access to a war zone has never been decided by the court.

The news organizations also contended that the Pentagon's press-reporting rules constituted an illegal "prior restraint" and therefore should be eliminated. Prior restraint occurs when the government censors material before its publication or broadcast. Except in rare cases, the First Amendment prohibits prior restraint. One exception recognizes the necessity of imposing government censorship when a "clear and present danger" threatens the country. In 1931 in the case of *Near v. Minnesota*, the U.S. Supreme Court cited an example of permissible military censorship: "No one would question but that a government might prevent . . . the publication of the sailing dates of transports or the location of troops." Before the lawsuit against Gulf War press restrictions could come before a judge, however, Desert Storm had ended.

During the war, a few reporters, called "unilaterals," broke away from the military's press pools and struck out on their own. Using cellular phones, they filed uncensored reports. These reports were not necessarily more critical of the military than pool reports. But they often seemed more realistic, because independent journalists usually reached battle scenes before pool reporters. Sometimes unilaterals were arrested, detained, and sent back to Dhahran by military authorities. But many managed to elude discovery, often with the help of American soldiers and officers.

Information-Age Checklist: Policy
G R A D E

As citizens in a democracy, you'll be confronted with policy questions relating to information. Should the Internet be taxed? What press policy should the military use in wartime? Should you vote for a particular ballot initiative? Government policies can profoundly affect our nation and your life. In a democracy, you have a say on government policies and proposed policies. It's important that you take a critical look at them. Use the following GRADE tests to evaluate a policy:

Goal. What is the policy and what is its goal? If you don't know what it's supposed to do, you can't measure its success or failure. Policies are designed to address problems. What problem or problems is this policy supposed to address?

Rivals. Who supports the policy? Who opposes it? Knowing the rivals can help you understand who the policy might affect and whether the policy favors special interests. Also, rivals are terrific sources for information. Be sure to check their facts, though.

Advantages. What are the policy's benefits? What is good about the policy? Will it achieve (or has it achieved) its goal? Will it achieve the goal efficiently? Is it inexpensive? Does it protect people from harm? Does it ensure people's liberties?

Disadvantages. What are the policy's costs? What is bad about the policy? Is it inefficient? Is it expensive? Does it cause harm? Does it intrude on people's liberties? Are there any potential consequences that may cause damage?

Evaluate the alternatives. One alternative is to do nothing. Most serious problems have various policy proposals. Evaluate them. Look at their goals, advantages, and disadvantages.

Once you GRADE the competing policies, weigh their advantages and disadvantages and decide which you favor.

When the ground war started, Secretary of Defense Richard Cheney ordered a blackout of battlefield news. "We cannot permit the Iraqi forces to know anything about what we're doing," Cheney warned. But the blackout failed to hold as hundreds of reporters in Dhahran broke for the desert. An ABC News team even took its own satellite dish to broadcast directly from the battlefield. This gross violation of Pentagon press rules did not seem to matter because the United Nations' forces rolled to a dramatic victory in a ground war that lasted barely 100 hours.

A MODEL FOR FUTURE WARS?

After the fighting ended, many journalists continued to criticize the Pentagon's press rules. "They created a system of enormous control," wrote Clark Hoyt, Washington bureau chief for Knight-Ridder Newspapers. Others expressed fears that such a system would become the model for future American wars. Pentagon spokesman Pete Williams responded that "the press gave the American people the best war coverage they ever had."

According to the military, control is necessary, especially in this age of rapid communications. Unlike World War II and Vietnam, the press can broadcast directly from the battlefield. Within seconds, the whole world—including the enemy—can see the report. Without controls, a reporter could unintentionally compromise U.S. forces. The military

views its control over the press as a matter of life and death.

For the most part, Americans supported the military's control of the press during the Gulf War. In a Roper public-opinion poll after the Gulf War, 68 percent of those surveyed believed military control of the news was about right, 17 percent wanted more control, and only 13 percent wanted less.

But some advocates of free expression worry that military control of the press encroaches on our basic freedoms. They make the following arguments: The First Amendment's protection of the free press should not be thrown out whenever the military starts shooting. People in a free society should decide whether to go to war, whether to stay at war, and whether a war is just. To decide, people need information from a free press, not from a press controlled by the military. Otherwise, Americans might fight wars knowing only what the military wants them to know. And the military might not want people to know any bad news, anything critical of the military, or anything that might turn them against a war. Americans could then find themselves in the position of citizens in a military dictatorship—like Saddam Hussein's Iraq.

PROPOSED RULES BY NEWS MEDIA

Several months after the Gulf War, a committee representing most of the nation's major news media issued a report stating that independent and uncensored reporting should be "the principal means of coverage" for all future wars and military operations. The report also proposed some battlefield press rules, including the following:

1. The Pentagon should accredit independent journalists, who must observe "a clear set of military security guidelines that protect U.S. forces and their operations." Violators of these guidelines should be expelled from the combat zone.
2. Press pools should be used only during the first 2-36 hours of any major military operation.
3. Reporters should have free access to all major military units.
4. The military should not monitor or interfere with press interviews or any part of the reporting process.
5. Written dispatches and pictures from the field should not be subject to any "military security review."

The press thinks these rules ensure press freedom and offer security to our military forces. The military favors press rules similar to those in the Gulf War, which give the military more control over the press in wartime.

POINTS OF INQUIRY

1. Is it possible to carry on a war with a free press? Why or why not?
2. Do you think the press should have access to war zones? Explain.
3. What are the similarities and differences between the two sets of battlefield press rules discussed in the article?

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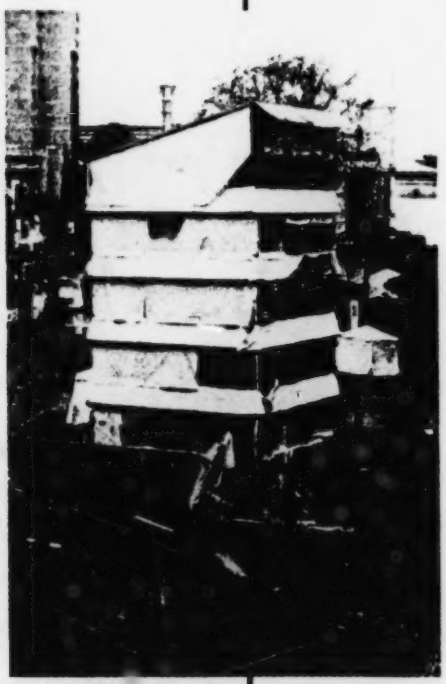
CHAPTER 2

A RESPONSIBLE PRESS

Inquisition in Atlanta

In the early morning hours of July 27, 1996, a bomb blast shattered the festive atmosphere of Atlanta's Centennial Olympic Park. The timing of the blast was deadly. Thousands of spectators had gathered in the park to celebrate another day of competition at the Summer Olympics. Shrapnel from the explosion cut through the dense crowd, killing one woman and injuring more than 100 bystanders.



A deadly explosion at the 1996 Summer Olympics triggered a media frenzy that raised questions about the responsibility of the press.

Although no suspects were apprehended, a hero did emerge during the first day of investigation and media coverage. Roughly 20 minutes before the explosion, a sharp-eyed security guard named Richard Jewell noticed an abandoned backpack lying near the Olympic Park bandstand, where late-night crowds gathered to dance and listen to live music.

Recognizing the danger posed by the backpack, Jewell hurriedly enlisted the aid of other security guards to clear the area. Before Jewell and his associates could finish the job, the bomb inside the backpack exploded, hurling ragged shards of metal into the crowd. Later Jewell described the nightmarish scene. "When the explosion occurred," he said, "I saw my fellow officers and friends flying through the air."

The explosion in Atlanta sent shock waves around the world. Pope John Paul condemned the attack as "senseless violence." Russian President Boris Yeltsin spoke of the bombing as "barbaric." French leader Jaques Chirac called for an anti-terrorist summit.

Security at the Olympics was redoubled. Police scoured Atlanta's Olympic facilities and the downtown area, looking for suspicious objects. There was speculation about a link between the Atlanta bombing and the fiery crash of Flight 800, the Paris-bound airliner that had mysteriously exploded after taking off from New York less than two weeks before the bombing at Olympic Park. (Federal authorities later determined that terrorism did not cause the crash.) Thousands of reporters, already on hand to cover the Olympic Games, jammed phone lines, massed at Olympic security offices, and pressured law-enforcement authorities to tell them what had taken place at Olympic Park.

Jewell was honored by city and Olympic officials. His quick and decisive actions had helped minimize the tragedy. The 33-year-old Atlanta security guard gave several interviews that aired around the world. He explained to an NBC interviewer that "I was in the right place at the right time, and I did the job I was trained to do." Jewell added that he loved Atlanta and wanted to be "a part of the feeling of the Games."

A HERO TURNS SUSPECT

Three days after the bombing, the *Atlanta Journal-Constitution*, the city's biggest newspaper, received a tip from an anonymous law-enforcement source. The tipster claimed that the FBI had doubts about Jewell's story. To find out more about the hero-turned-suspect, the *Journal* sent a young intern to stake out Jewell's apartment. Upon her arrival at Jewell's home, the intern discovered she was not alone. Men in sunglasses watched the security guard's front door. Others perched by the pool where they trained binoculars on Jewell's rear windows.

The intern reported that Jewell, still considered a hero, was being watched. Later that day, reporters at the *Journal* learned that the FBI had spoken to several of Jewell's former employers regarding his performance in past law enforcement and security jobs. Reporters and editors at the newspaper had to make a difficult decision: Should they wait for more

information or print what they knew? If they waited, another news organization might "scoop" them and publish the story first. The editors of the *Journal* chose to proceed. They hurriedly rewrote the front page of the day's special Olympic edition. The headline read "FBI Suspects 'Hero' Guard May Have Planted Bomb."

The Olympic edition of the *Journal* hit the streets at 4:30 p.m. An Atlanta-based CNN announcer read portions of the Jewell story aloud on the 5 o'clock news. That evening, all major networks opened their newscasts with the story that the hero of Olympic Park was now a suspect in the Atlanta bombing.

Four days after the bombing, Jewell had become known as a murder suspect. A convoy of satellite-dished news trucks set up shop in front of Jewell's condominium. For days, the public read, watched, and listened as Jewell was profiled as "a frustrated loner who wants to be a hero," who built a deadly bomb, planted it in an unsuspecting crowd, and then exploited the murderous tragedy "in search of glory for saving lives."

The Boston Globe concluded that Jewell "had a driving desire, even a need, to be a cop." *The Atlanta Journal-Constitution* further described Jewell as a "lone bomber" who was "seeking publicity for his actions." A second headline proclaimed: "Bomb Suspect Had Sought Limelight, Press Interviews."

A week after the bombing, law-enforcement officials had still not arrested Jewell. The media continued to portray him as the primary suspect in the case. NBC's Tom Brokaw speculated that "the FBI is close to making the case, in their language. They probably have enough to arrest [Jewell] right now, probably enough to prosecute him, but you want to have enough to convict him as well. There are still some holes in the case."

RUSH TO JUDGMENT?

The media frenzy reached fever pitch. Still, Jewell had not been detained, arrested, or indicted for any crime. In fact, Jewell was never charged with the Olympic Park bombing. Three months after the explosion ripped through Olympic Park, the former security

Although never formally charged in the Olympic Park bombing, security guard Richard Jewell was named as a suspect by law enforcement and the media.

guard announced that his ordeal was over. The Justice Department had informed him that he was no longer under investigation. Jewell filed lawsuits against NBC and the *Atlanta Journal-Constitution*, charging them with libel.

Was the press irresponsible in its coverage of Richard Jewell? Journalists and media critics disagree about the media's role in the Jewell case. Some members of the media described the use of anonymous sources, even those from law-enforcement agencies as "reckless," "intrusive," and "destructive." The *Los Angeles Times* admitted to hanging "an innocent man out to dry" and asked how journalists can "unmake a villain."

"The news media's focus on the background and character of the suspect at this stage of the investigation is entirely out of line," claimed Deni Elliot, an ethics professor at the University of Montana. "Unless news organizations can provide some good reason why we need to have this information, which is a violation of [Jewell's] privacy . . . it's illegitimate to give out this information."

Village Voice media critic James Ledbetter added, "There's a world of difference between

NETWORK NEWS
"...CNN IS NOW REPORTING THAT ABC HAS REPORTED THAT NBC JUST GOT WORD FROM CBS ABOUT A REPORT ON CNN CONCERNING NBC'S REPORT ON ABC'S CNN REPORT..."

reporting [Richard Jewell] is a suspect and camping out at his apartment, writing detailed profiles and having psychologists on the air talking about him."

Other journalists defended the coverage of Jewell's suspect status. They argued that the public had a right to know about the FBI investigation. The editors of the *Atlanta Journal-Constitution* explained that "with Atlanta and the world anxious to know how the bombing had occurred, journalists did what they ought to do—they revealed as much information as they could find on the investigation into the bombing."

Media critic Howard Rosenberg criticized coverage of Jewell, but declared that the story was a clear case of the "eternal conflict" between the free flow of information in a democracy and "the privacy of the individual." He observed that "only news outfits with inhuman courage and restraint" could have resisted the temptation to report on Jewell, especially after the story "began erupting out of control."

Perhaps the clearest criticism of the media's handling of the Jewell case comes from lawyers representing the former security guard. According to them, "the information that Mr. Jewell was under scrutiny . . . was leaked to the *Atlanta Journal-Constitution* by an FBI agent who was not identified. The information . . . was confirmed to the *Atlanta Journal-Constitution* by unidentified members of the Atlanta Police Department."

Jewell's lawyers claimed that the paper failed to question why "unnamed law-enforcement officials were willing to leak . . . Jewell's name to the media" when no warrant had been issued to search Jewell's property, when they had no plans to arrest Jewell, and when "law-enforcement officials would not confirm on the record that . . . Jewell was an official suspect."

A CLOSER LOOK

Those who leaked Jewell's name to the media have never been identified. The question remains, why would law-enforcement officers name Jewell as a suspect? The eyes of the world were focused on Atlanta, the Olympics, and the bombing. The police and the FBI were under great pressure to bring the bomber to justice quickly. Some investigators, frustrated at the lack of progress in the case, may have wanted to pressure Jewell into confessing. They may have hoped that focusing the media's attention on Jewell would make him confess or help them find the real bomber.

In their rush to cover the story, the media failed to investigate the motives police might have had for naming Jewell as a suspect. In the interests of accuracy, journalists are expected to double-check their sources, particularly when those sources refuse to identify themselves. Most editors insist that journalists follow this rule even when the source is a law-enforcement officer.

In addition, the media failed to emphasize evidence that cast doubt on Jewell's guilt. They seldom mentioned that Jewell would have put himself at great risk by planting the bomb since he was stationed in the same area. They discounted the fact that it would have been impossible for Jewell to plant the bomb, make the warning call to 911, and return to his station in the time frame required.

Shaky, unsubstantiated news stories are considered fair game by some news editors because lawsuits are usually aimed at the news organization that "breaks" the story. In the Jewell case, journalists broadcast claims that Jewell was a bombing suspect because they knew that the *Atlanta Journal-Constitution* would take any blame. They did not wait until Jewell had been officially charged.

Information-Age Checklist: Sources

S M A R T

Like journalists, you depend on sources for information. You may read a story in the newspaper, see it on television, or hear it from a friend. To judge the reliability of the story, you should always consider the source. Use the following SMART tests to check your sources:

Source. For you to evaluate a source, you have to know who or what the source is. Where does the story come from? Is the person reporting the story an eyewitness to the story? Did the person get the story from others? From eyewitnesses? From a book? Track the source down. If the source is unclear, be skeptical about the story.

Motive. Why do they say so? Sources often have a special interest or particular point of view that may cause them to slant information. Biased sources can be accurate, but you need to check them carefully. Get all sides to a story.

Authority. How good is the source? Eyewitnesses can be wrong. Was the witness in a good position? If the source isn't an eyewitness, make sure it's a source you can trust—e.g., an expert on the subject, a newspaper with good fact checking. Be wary of any source that is repeating hearsay and rumors.

Review. Go over the story carefully. Does it make sense? Is it logically consistent? Are there any notable errors in facts or conclusions? Make a list of questionable facts. Develop questions about the story.

Two-source test. Double-check everything, if possible. Talk to a second party. Research the subject in the library, by interviewing others, and search on the Internet. Does your two-source test confirm the story or contradict it?

Regardless of the reasons for the law-enforcement leak, the media failed to use established methods for gathering information, methods that might have ensured Richard Jewell's right to privacy while giving the public accurate news about the bombing and its investigation.

POINTS OF INQUIRY

1. In your opinion, should the media have reported the news that Richard Jewell was being considered a suspect? Why or why not?
2. Why do you think journalists failed to investigate the motives of law-enforcement officers who leaked Richard Jewell's name to the media?
3. Why do you think is is important for journalists to check their sources?

Advertising and the Media

Newspapers were the first form of American media. At the time of the Revolutionary War, only 37 newspapers served 2.8 million colonial citizens. But they managed to keep people informed of events in the colonies and far-off England. In addition to news, they featured essays and debates on issues. The colonial press created a passion for newspapers in American readers. With freedom of the press guaranteed by the Constitution, American newspapers began to grow rapidly.

THE POWER OF ADVERTISING

But running a newspaper costs money. In Benjamin Franklin's day, the editor of a newspaper was more powerful than the advertisers. But as advertising began to cover more of the rising cost of publication, conflicts arose between publishers, editors, and their advertisers. In 1880, Joseph Pulitzer, one of the most powerful publishers in the business, commented on the power advertisers wielded over his newspaper empire: "The pen may be mightier than the sword, but the advertiser is mightier than the editor."

A modern printing press towers over a 17th century hand press. The high cost of technology makes advertising an important element of contemporary media.

Today, the American press reaches billions of people around the globe and has expanded to include all media, from newspaper giants (the *New York Times* has a Sunday circulation of over 1.6 million copies) to powerful publishing houses, worldwide radio and television networks, record companies, motion picture studios, phone and cable systems, and the Internet. Although the press has changed its shape, advertising continues to occupy a central position in the makeup of most newspapers and radio and television broadcasts.

Many of today's media organizations are linked to large parent corporations. ABC, CBS, NBC, the *New York Times*, *Washington Post*, *Wall Street Journal*, *Los Angeles Times*, *Newsweek*, and *Time* are run by some of the largest corporations in the world. Advertising plays an important role in assuring profits to these corporations and their stockholders.

Advertising accounts for more than half of most magazines' income. Automobile and real estate ads command whole sections in a contemporary newspaper. In commercial broadcast television, advertising covers all expenses. A drop in one point in the Nielsen Ratings can mean a loss of up to $100 million a year in advertising revenues for a television network.

In addition to generating profits for media organizations, advertising allows publishers to charge readers less for newspapers and magazines. Advertising enables hundreds of networks, cable companies, and local stations to broadcast radio and television programming without charging subscribers. Surveys show that many readers regard advertising as news, because ads inform them of new merchandise, product upgrades, and sales and tell readers where to find items that they want or need.

THE FIREWALL

Traditionally, journalists have been wary of the potential power that advertisers have over the media. What if an advertiser doesn't like a political candidate? Should that candidate receive less coverage than the advertiser's favorite? What if a sponsor's product is proven to be of poor quality or even hazardous to people's health? Will an automobile company withdraw its advertising money if a magazine reports on defects in one of its cars?

To maintain the freedom to report the news of the day fairly and accurately, most press organizations maintain a strict boundary or "firewall." David Shaw, media reporter for the *Los Angeles Times*, says the firewall is designed "to ensure that all decisions on the coverage, writing, editing, and placement of stories will be made on journalistic merit—on what the editors think the readers want and need to know, without any concern for

whether those stories will attract or repel advertisers. Bill Kovach, former Washington bureau chief at the *New York Times*, recalls that, during the 1970s and 1980s, "the idea that I would be. . . concerned about advertising, or circulation, or the budget. . . was nonexistent." Kovach says, the job of the news department was to publish "the best news report we could, and the circulation and the advertising department would have to live with that product." But in recent years, many journalists believe that the firewall between advertising and reporting has broken down.

In 1996, American auto manufacturers spent roughly $3 billion on media advertising in the United States. That same year, Chrysler's ad agency sent a letter to more than 100 publications about new guidelines for placing Chrysler advertisements. The letter required editors to give Chrysler early warning of "sexual, political, social issues or any editorial that might be construed as provocative or offensive . . . in order to give Chrysler ample time to review and reschedule if desired." In other words, Chrysler did not want its ads running next to controversial material without its approval.

Critics believe that the letter from the auto company put pressure on editors to change or even remove articles that might offend Chrysler. Milton Glazer, co-founder of *New York* magazine, believes that demands from corporations like Chrysler "have a devastating effect on the idea of a free press and of free inquiry." Russ Baker, writing in the *Columbia Journalism Review*, claims that the relationship between advertising and news content "is changing for the worse. Corporations and their ad agencies have clearly turned up the heat on editors and publishers." Edward Kosner, editor of *Esquire* magazine, believes that advertiser guidelines like those issued by Chrysler proves that editors are "taking marching orders from advertisers."

When the *American Society of Newspaper Editors* (ASME) recently conducted a survey of 85 major newspapers, more than 90 percent of advertising directors reported that advertisers had canceled ads within the last five years because they were unhappy with news coverage or editorial comment.

Many magazines already provide warnings to advertisers about copy that might cast them in a bad light. Chrysler, some magazine people argue, is simply following this long-standing cooperation between advertisers and editors. A Chrysler spokesman says, "Of the thousands of magazine ads we've placed in a year, we haven't stopped dealing with any magazine." He compares placing an ad to buying a house. "You decide the neighborhood you want to be in." The advertiser is paying huge amounts of money to place its ads. Many business people and some journalists agree that Chrysler's demands are reasonable and simple.

Other journalists are not convinced. Chrysler's letter comes at a time when a growing number of publications compete for ad dollars. Many magazines feel they cannot afford to say "no" to Chrysler. In response to the Chrysler letter, ASME declared that "readers value magazines both for their editorial content and their advertising. If there is any blurring of the distinction between editorial and advertising, both will lose credibility."

ASME proposed a series of guidelines. There should be a clear separation between advertising and editorial content, it declared. The editor should have final approval over all words and images. Jack Fuller, publisher of the *Chicago Tribune*, says editors and publishers should avoid conflict between news and advertising by being clear about journalistic integrity; the editor's decision should be final on all journalistic questions.

NEW PARTNERS

Another trend toward breaking down the firewall between business and editorial policy began in the mid-1980s. Papers were losing readers. Business executives started exploring new ways for newspapers to make money. At

some newspapers, journalists were asked to meet with people from advertising. They were asked to work together to come up with new sections that would appeal to readers and advertisers alike.

For example, the *Los Angeles Times* began publishing a Health section that took shape from discussions between advertising managers and editors. Health is an issue that many people are interested in, they reasoned. Rather than scatter articles on health and medicine throughout the paper, the *Times* decided to concentrate health news in one easy-to-read section where sponsors of health products and services could place their ads.

Mark Willes, publisher of the *Times*, declares that this blend of business and journalism improves the paper. "There must be a way to have truly great journalism and a great business enterprise," says Willes. Jeffrey Klein, general manager of the *Times* says, "We're trying to get people to think about the whole paper." Narda Zacchino, a *Times* editor for 28 years, comments, "There's a feeling of everybody being on the same team."

Although the *Times* covers health and science issues in depth in the front section, critics worry about the influence this new advertising-editorial partnership will have on health coverage. In an effort to keep advertisers in mind, they say, stories in the *Times* Health section tend to be slanted toward health products and services. "What's lacking in the section," says Charles Rappleye in the *Columbia Journalism Review*, "is hard news of the world of health care, from HMOs and managed care to fraud and government action. Also lacking is any sophisticated treatment of new advances in science and medicine."

Others believe the new partnership between advertising and content is already successful. Janis Heaphy, the *Los Angeles Times'* senior vice-president for advertising was assigned to work with editors to develop the new Health section. Heaphy described a careful research and planning process that included testing new ideas on readers and advertisers. Experimental Health sections were developed, written, and printed, then run through a battery of tests and printed again. "We did our research," said Heaphy, three months after the Health section was first published. "We got our financials together and we rolled it out. We launched it October 8 and we are already at 80 percent of our ad revenue goals."

The new partnership between business and editorial tends to create conflict between new business-oriented editors and their reporters, many of whom object to breaking down the firewall between advertisers and journalists. Doug Underwood, communications professor at the University of Washington, writes that "the editors in many of these market-oriented newsrooms seem to be more concerned about offending advertisers."

Media organizations have grown from small, locally owned companies into large, multinational corporations that share interests with other major corporations, banks, and even the U.S. government. They are often dependent on advertising income. Some advertisers feel that–given the size of their investments–they should have some influence over what articles run next to their ads. Conflict of interest between corporations, advertisers, and media organizations has a powerful influence over the way the media delivers the information we depend upon to make well-informed decisions in everyday life.

POINTS OF INQUIRY

1. What is a "firewall" in journalism? What purpose does the firewall serve?
2. How has the relationship between advertising and editorial departments changed in recent years?
3. How might editors and reporters ensure that readers and viewers get the news they want and need, without regard for advertisers?

Tabloid!

In recent years, readers and viewers have turned to new sources for news and entertainment. Daily newspapers and network television news shows in particular have been losing out to special-interest magazines, cable television, the Internet, and the sensation-seeking tabloid press. To attract new readers and viewers, newspaper and television executives have increasingly allowed journalists and broadcasters to blur long-standing boundaries between mainstream and tabloid journalism. From the coverage of the O.J. Simpson trial to the death of Princess Diana to the latest sex scandal, many believe the mainstream media are trying to beat the tabloids at their own game.

TABLOID HISTORY

Tabloids take their name from a scientific term meaning condensed, or compressed. Cut to half the size of ordinary newspapers to save money on paper and make them readable in crowded commuter trains and subways, tabloids usually boast a front page with a screaming headline and large pictures. Inside, short, sensationalized news articles and photos publicize the lives, loves, and misfortunes of both ordinary and famous people. Tabloid stories are written to startle, excite, and sometimes, even mislead the reader.

The first successful tabloid in America was born in 1883 when Joseph Pulitzer bought the *New York World*. While the *World's* editorial page preached lofty morals and ethics, Pulitzer made sure the front pages of his newspaper featured sensational stories of disasters, bloody crimes, and sex scandals. Circulation soared.

William Randolph Hearst, the son of a California millionaire, was fascinated by Pulitzer's success. Hearst purchased the *New York Morning Journal* and lured Pulitzer's journalists away with inflated salaries. The battle between Pulitzer's *World* and Hearst's *Journal* exemplified the cutthroat competition between tabloid papers.

In 1919, a new tabloid, the *New York Daily News*, took advantage of new technology that made it possible to reproduce newspaper photos cheaply and accurately. The front page of the *Daily News* regularly featured a sensational headline accompanied by lurid photographs. By 1924, the *Daily News* had the largest circulation of any newspaper in the country. Soon other tabloids began to appear in major cities across the nation. Facing serious competition from the tabloids, mainstream newspapers began to imitate the tabloids' large headlines, splashy photos, and sensational stories.

In the 1940s, tabloid columnists like Walter Winchell, Hedda Hopper, and Louella Parsons invaded the mainstream media with gossip about the rich and famous. Before it was put out of business by an avalanche of lawsuits, *Confidential* magazine specialized in finding black marks in the private lives of celebrities in the 1950s. Today, the modern tabloid is generally sold over the counter at supermarkets, convenience stores, and newsstands.

There are basically two kinds of tabloids. Some, like the *Weekly World News* and the *Sun*, mix sensational crime stories with celebrity gossip. They often feature headlines that describe absurd or impossible events as if they were the truth. "Alien Visits White House" and "Woman Killed by Fur Coat" are real tabloid headlines but they clearly do not describe real events. The *News* and the *Sun* frequently print disclaimers that ask readers to "suspend belief."

Other tabloids, like the *National Enquirer*, the *Globe*, and the *Star*, specialize in sensational truth instead of bizarre fiction. They run stories about real-life heroes and heroines, scoop celebrity gossip, dig up rags-to-riches profiles, and publish tips on self-improvement. They offer above-average salaries to attract well-qualified journalists. In order to avoid lawsuits, these tabloid giants carefully check facts and retain staffs of lawyers who reveiw their stories for legal problems. The *Enquirer*'s coverage of the O.J. Simpson trial was praised in

Tabloids and the mainstream media frequently compete to cover events such as the O.J. Simpson trial and the death of Princess Diana.

the *New York Times* by media critic David Margolick.

In the 1980s, the *National Enquirer* frequently sold more than 4 million newspapers a week, making it second only to *TV Guide* in newsstand sales. In the 1990s, tabloid circulation began to decrease.

Some attribute falling tabloid sales to the introduction of tabloid-style television shows like "Hard Copy," "Inside Edition," "A Current Affair," and "American Journal." Although they are produced by major television networks, these popular shows are similar to tabloid newspapers. They compete with the tabloids to cover celebrity scandal, run undercover exposés, and explore paranormal phenomena and urban myths.

Others attribute the decline in tabloid sales to competition from the mainstream media. During recent decades, America's population has grown, but newspaper circulation has remained steady at 60 million readers. According to a survey conducted by *Time* magazine and CNN, almost three times as many Americans get their news from television as from newspapers. But the audience for network news has also declined. In 1981, about 40 percent of the nation's viewing public saw the major networks' evening news. In 1995, that audience had dropped to about 25 percent.

Celebrity photographers, called *paparazzi*, pursue John F. Kennedy. Paparazzi are often accused of violating people's right to privacy.

Many experts believe that the mainstream media—as they did in the 1920s—are once again borrowing practices from tabloid journalism in an attempt to attract readers and viewers. We'll look at three of these practices—paying for information, altering and staging photos, and the trivializing of news with gossip and scandal.

PAYING FOR INFORMATION

During the O.J. Simpson trial, the *National Enquirer* spent more than $150,000 for tips and interviews. It paid more than $12,000 to a salesman who claimed that he sold Simpson a knife resembling the murder weapon. It paid $18,000 to Nicole Simpson's maid who described how the murder victim had suffered abuse at the hands of her husband. The mainstream media quoted both stories after they appeared in the *Enquirer*. The *New York Times* defended its use of the *Enquirer* information as necessary to explain proceedings in the Simpson trial.

Many critics believe that tabloids violate a basic journalistic principle when they pay for information. In its *Code of Ethics*, the Society of Professional Journalists (SPJ) states, "Journalists should be wary of sources offering information for favors or money; avoid bidding for news." SPJ believes that the exchange of money invalidates a source's credibility. Paid sources like the knife salesman and Nicole Simpson's maid are more likely to "bend" facts to tell journalists what they want to hear.

Steve Coz, editor of the *National Enquirer*, admits that paying for information is risky. "People will embellish for money," he says. "You understand that and you cross-check. But let's face it," Coz continues, "the police pay informants, prosecutors offer reduced jail sentences, defense attorneys pay thousands of dollars for expert witnesses." Iain Calder, the *Enquirer*'s editor-in-chief, says he uses a large portion of the paper's $16 million budget to pay sources for information, but "you take these tips and you check them out, just like you check out any other story."

Landon Jones, editor of *People* magazine, says he doesn't pay for stories, but he admits that the magazine contributed $100,000 to Elizabeth Taylor's favorite charity in return for exclusive pictures of her wedding. "It's not a bribe," he explained. "In a way, we're investing in goodwill."

Marvin Kalb, director of Harvard University's journalism school, calls the practice of paying for stories "part of the prostitution of American journalism." He urges other mainstream journalists not to quote stories from paid sources.

Although he works for a newspaper that does not pay for information, John Tierney, a

reporter for the *New York Times* writes, "I don't believe that paying sources is unethical, as long as it's disclosed to the reader." Tierney asserts that paying for information "might promote some fictional tales," but that it encourages sources who otherwise would "see no good reason to talk to a reporter."

ALTERING AND STAGING PHOTOS

During the O.J. Simpson trial, the media and the public weren't allowed to see gory photographs of the victims taken at the crime scene. The *National Examiner,* a major supermarket tabloid, used actors, fake blood, and computer graphics to re-create photos of the murders. Terry Raskyn, publisher of the *Examiner,* explained that he wanted to "give people an idea of what was being seen in court." Raskin's editor, Dan Dolan, defended the staged photos by saying that "the everyday spectator should be privy to the same information as the judge and the jury."

As the Simpson trial began, the *National Enquirer* ran a computer-generated photo of a bruised and battered Nicole Simpson on its cover with the warning that the picture was a "computer re-creation." "It's okay," said *Enquirer* editor Calder, "as long as you tell people."

Tabloid journalists are not the only people who alter or stage photos. *USA Today*'s editor David Mazzarella has stated that staged photos are "a common practice among newspapers and magazines." *USA Today* staged a picture of a schoolgirl snorting cocaine to illustrate a front-page story about drug use among teenagers. *Time* magazine used computer graphics to darken a cover photo of O.J. Simpson. *Newsday* published a computer-altered picture that placed Olympic rivals Nancy Kerrigan and Tonya Harding side-by-side when they had never skated together. In a story on alleged faulty gas tanks in General Motors' trucks, NBC's "Dateline" used incendiary devices to make sure the gas tank of a GM truck exploded in a collision it staged.

The Society of Professional Journalists warns journalists to "never distort the content of news photos or video. Avoid misleading reenactments or staged events." Charles Cooper, director of the National Press Photographer's Association, argues that by "playing around with [photos], people may believe what they see. Any time you're presenting something as a news photo," Cooper continues, "it should not be altered at all." Otherwise, journalists risk spreading lies.

Other critics claim that tabloid-style photo alteration causes readers and viewers to distrust the mainstream media. "A reader's lack of trust takes many, many years to regain and none of us can afford to lose our credibility," says Larry Nighswander, director of visual communication at Ohio University.

GOSSIP AND SCANDAL VERSUS THE NEWS

Technology has made it possible to gather up-to-the minute news from all over the world. It is impossible to fit all the news of the day into a single newspaper or television broadcast. Tabloid journalism has played a major role in deciding which stories make the news. While the *New York Times* traditionally covers hard news and serious issues like the budget battles in Washington and the war in Bosnia, the tabloids generally focus on stories about celebrity murders, Liz Taylor's health, or Princess Di's love life.

"Many [mainstream] editors were dismayed at the massive amount of attention paid to the O.J. Simpson murder trial," writes Richard Zoglin, business editor for *Time* magazine. "Still, for competitive reasons," Zoglin explains, "they couldn't ignore it."

Many tabloid journalists argue that they are giving people what they want and that their stories of gossip and scandal are true and accurate. As was the case in the O.J. Simpson trial, the tabloids use money and extra reporters to get the story first. They often beat mainstream news departments with more limited resources.

"The tabloids are leading because we have the best reporters in America," says the *Examiner's*

editor, Dan Dolan, "because this is one of the few places in American journalism where there's still healthy competition–and competition makes you sharper."

Steve Coz, editor of the *Enquirer,* claims that tabloids "pare things down to the bone, to [give] readers the accurate information they need without inundating them with boring details. Every single network, every single magazine in America has gone more celebrity. That's the *Enquirer*'s influence, whether you like it or not."

Examples are not hard to find. During closing arguments in the O.J. Simpson trial, not a single television news broadcast broke away from the courtroom to cover the signing of a historic treaty between Israel and Palestine. On the same day that the Supreme Court ruled that President Clinton must testify about his alleged sexual infidelity, Russian President Boris Yeltsin announced that nuclear missiles were no longer aimed at American cities. The mainstream media chose to focus on the President's personal life while Yeltsin's announcement slipped by unnoticed.

Media critic Ben Bagdikian claims that "when celebrity news proliferates, the standard press begins to lose support. Editors who defend tabloid journalism undermine the seriousness with which the public will defend freedom of the press." Quoting demands for press censorship after the death of Princess Diana, Bagdikian says, "If too much of the press is associated with trivial celebrity news, then the public won't mind if freedom of the press is restricted."

POINTS OF INQUIRY

1. What are some tabloid practices that critics think are unethical?
2. Why do you think that mainstream journalists often consider tabloids to be "sleazy," or illegitimate?
3. List two recent news stories where mainstream journalists were accused of resorting to tabloid practices.
4. In your opinion, do you think mainstream journalists should use tabloid methods? Explain.

Undercover: ABC Goes Lion Hunting

One of journalism's most important jobs is to inform the public of crucial issues. But investigating allegations of wrongdoing is often difficult. Those under investigation may refuse to cooperate with journalists. Some journalists hide their identity to investigate people or organizations they suspect of wrongdoing. This practice, often called undercover reporting, raises important questions. Many of such questions came to light in 1992, when two producers from ABC's "Prime Time Live" went undercover to investigate Food Lion, a major corporation.

In 1992, Food Lion was the fastest-growing supermarket chain in the nation. It operated more than 1,000 stores, most in the South. It boasted prices 7 to 15 percent lower than its competitors and did $8.2 billion worth of yearly business. High profits made Food Lion stock a favorite on Wall Street.

Despite its success, Food Lion had labor problems. According to one report, clerks at Food Lion earned about half of what clerks at rival Safeway made. In addition, some Food Lion employees complained that the chain pressured them to cut corners on sanitation, to sell food after its shelf life had expired, and to work illegal overtime hours. The United Food and Commercial Workers (UFCW), a union for supermarket employees, was waging a campaign to represent Food Lion workers. But Food Lion had successfully resisted unionization.

Food Lion had always dismissed the accusations of unfair labor practices and poor food handling as a smear campaign staged by disgruntled employees and a frustrated union. In truth, the union was anxious to draw attention to Food Lion's labor policies. In 1992, a staff member of UFCW and several former Food Lion workers met with producers from the ABC television news magazine "Prime Time Live" to encourage an investigation of the company's practices.

ABC GOES UNDERCOVER

After this talk, ABC's producers decided to pursue a story on Food Lion. Thinking the story might require undercover reporting and hidden cameras, the producers requested and received permission from ABC's news division and legal department to go undercover.

The UFCW worked with "Prime Time Live" to provide false references for two ABC producers and train them as food handlers. The two producers concealed their identities, faked their job experience, and landed jobs in Food Lion stores. For two weeks, the reporters used hidden mini-cameras to secretly record what they saw and heard on the job. They returned with more than 45 hours of videotape.

On November 5, 1992, "Prime Time Live" aired a carefully constructed exposé. ABC anchorwoman Diane Sawyer explained that Food Lion's stock values depend on consistently high profit margins. Therefore, she asserted, employees are under pressure to save and sell every scrap of food they can. In addition, Sawyer claimed, Food Lion pushes its employees to the limit, forcing them to work long overtime hours and ignore health codes. Video, taken with hidden cameras, seemed to show employees changing the labels on old meat and preparing to sell it as fresh. In interviews, former employees claimed that they were forced to soak ham and fish in bleach to remove signs of spoilage. One stated, "I've seen my supervisor take chicken out of the [garbage] can, make us wash it, and put it back out. And it was rotten."

Following the show, Food Lion's business fell off drastically. The chain's stock value plummeted. Poor sales forced Food Lion to close almost 90 stores and lay off about 3,500 employees.

Food Lion admitted that, like any company, a few employees may occasionally violate rules. But it adamantly denied the charges in the broadcast. It filed suit against ABC and the show's producers. Although Food Lion insisted the broadcast made false accusations, it didn't file suit for libel to challenge the truth of the accusations. Instead, Food Lion focused on the methods ABC used to gather its information. It filed suit for fraud, trespass, and breach of loyalty (as well as several other allegations that the judge later dismissed). It claimed that Prime Time's undercover reporters had committed fraud by submitting fake resumés. They were trespassers because they had used false information to gain admittance to Food Lion property. And they breached their loyalty to Food Lion because they were working for ABC.

Following an exposé of food-handling practices on NBC's "Prime Time Live," business at this major supermarket chain fell off drastically.

ABC's lawyers argued that there was no breach of loyalty, because Prime Time's undercover reporters did the work they were told to do as Food Lion employees. They said there was no trespass, because all Food Lion employees, including the two reporters, have a right to be on Food Lion property. And even though the reporters lied, the lawyers claimed this did not amount to fraud because one of the elements of fraud is harm, and the reporters did no harm to Food Lion on the job.

Before the trial in federal court in Greensboro, North Carolina, the judge narrowed the issues. Because Food Lion did not sue for libel, he ruled that the truth of the broadcast was not an issue. Thus neither side could present evidence about the broadcast being true or false. In fact, the jury never saw the broadcast. He also ruled that neither side could present evidence about why ABC did the story. This prevented Food Lion from showing how the union had helped prepare the story, and it precluded ABC from introducing evidence about the labor and food-safety issues that prompted it to do the story. Another non-issue was the use of hidden cameras. Although many states forbid audio or videotaping without the consent of all parties, North Carolina allows taping if one party consents (in this case, the reporters for ABC consented).

That meant that the main issues at trial were whether the reporters trespassed and how well they did their job for Food Lion. Lawyers for Food Lion introduced various outtakes from the 45 hours of ABC videotape to show that the reporters weren't doing their Food Lion jobs. These outtakes proved embarrassing to ABC. In one, a reporter muttered a swear word when a co-worker cleaned a meat cutter. In another similar incident, a reporter swore under her breath when a deli supervisor told her not to sell spoiled chicken but to throw it away. In these outtakes, the reporters repeatedly did not clean adequately or throw away bad food. They seemed intent on finding ways to make Food Lion look bad. They appeared neither as loyal workers for Food Lion nor as members of the press seeking the truth. On the stand, the reporters testified that these outtakes misrepresented what they were doing.

Since Food Lion was not suing for libel, it could not recover for any damage the ABC report did to its reputation. Its claim for damages consisted of the amount it lost in training and paying the undercover reporters. Food Lion presented one witness who totaled the costs to Food Lion of hiring the reporters as $2,432.35.

After hearing the arguments from both sides, the federal jury found in favor of Food Lion. The jury awarded Food Lion $1,402–$1,400 for fraud and the token amounts of $1 for trespass and $1 for breach of loyalty.

The trial, however, did not end here. Next the jury had to consider punitive damages. These damages are awarded to punish defendants for reckless or dangerous behavior. Punitive damages are meant to serve as a warning to others who might be tempted to engage in similar behavior. After hearing more evidence, the jury decided on punitive damages in the amount of $5.5 million.

Several months later, the judge reduced the punitive damages to $315,000, ruling that the difference between the actual damages of $1,402 and the punitive damages of $5.5 million was too great. ABC has appealed this decision, arguing that there should be no punitive damages because the reporting was in the public interest.

The Food Lion case has generated much debate. Some question why Food Lion didn't sue for libel. Others argue over the ethics of undercover reporting.

THE QUESTION OF LIBEL

The main damage that Food Lion suffered in this case was to its reputation. When someone's reputation is damaged, the legal remedy is normally a lawsuit for libel. To prove a libel case, a plaintiff (person suing) must show that the defendant made a false statement that damaged the plaintiff's reputation. The Supreme Court has added an additional requirement for plaintiffs who are public figures (which Food Lion is, because it's a large, well-known corporation). Public figures must prove "actual malice" on the part of the defendant, that is, that the defendant either knew the statement was false or made the statement with reckless disregard of the truth.

Food Lion offered two reasons why it didn't sue for libel. First, it stated that libel is difficult to prove. Second, it tried to add libel to its lawsuit later on, claiming that ABC had withheld evidence that would enable Food Lion to prove libel. But the time for filing a libel suit had expired, and the court found Food Lion's argument without merit.

ABC argued that Food Lion is using this lawsuit to repair its reputation and it should not be eligible for punitive damages unless it proves actual malice. Food Lion disagreed, saying ABC is being punished for using wrongful newsgathering tactics–not for damaging its reputation.

UNDERCOVER REPORTING

Aside from legal issues, undercover reporting raises ethical issues. Most fundamentally, the question arises whether it is proper for a reporter to lie and misrepresent who he or she is. Some people in the media, especially the print media, believe there is never any justification for lying.

Abe Rosenthal of the *New York Times* has said that undercover journalism "demeans journalism." He believes it brings the journalists' credibility into question. If "Prime Time Live" lied to Food Lion, who's to say it didn't lie to its viewers? Rosenthal does not believe inves-

tigative journalism needs undercover journalism. He says, "As an editor, I found if you pushed hard enough you could get the story without it."

But undercover journalism has a long history and has brought many critical issues to the public's attention. In 1887, a young reporter named Nellie Bly masqueraded as a madwoman to gain entry into a New York insane asylum. Her reports led to major reforms in the treatment of the mentally ill. Two decades later, writer Upton Sinclair concealed his identity to take a job in a Chicago meat-packing plant. Sinclair's book *The Jungle* exposed horrible labor conditions and dangerous food-processing practices and contributed to the passage of the federal Pure Food and Drug Act of 1906.

In more recent years, television programs like "60 Minutes" and "Prime Time Live" have reported on questionable behavior by business and government. Undercover reporters have exposed voter fraud, patient abuse in federal Veterans' Administration hospitals, and the activities of the Ku Klux Klan. Roone Arledge, president of ABC News, wrote that "not one of the institutions we investigated would have volunteered to tell all if a reporter had showed up with a camera."

The Society of Professional Journalists has developed standards for reporters to determine whether undercover reporting is appropriate. According to the society, misrepresentation should only be used when:

- the information is of vital public importance.
- all other means for finding the information have been exhausted.
- the journalists disclose the deception and the reasons for it in their piece.
- the journalists and news organization present all sides and pursue the story fully.
- the harm of the deception is outweighed by the harm prevented by revealing the information.
- the journalists have gone through a careful, deliberative process before embarking on the deception.

Roone Arledge defends the Food Lion story: "This story was important. This story was true. And this story was about as close to 100 percent perfect as any story we have ever done."

But Paul McMasters, the Freedom Forum First Amendment ombudsman, has said that ABC would have presented a better story if it could have stated:

"We checked out state and federal inspection records relating to food handling at Food Lion stores. Here's what they showed (or didn't show). We purchased suspect food at these stores on these days, had the food tested, and here's what those tests showed (or didn't show). We interviewed customers of Food Lion about whether they had encountered any problems with food they purchased, and here's what they said. After fully reporting the story by all other means, we had no choice but to go behind the scenes with hidden cameras to document and support our other findings (or to discover that food was not being mishandled)."

One reason why ABC didn't cover the story like this may be competition. Since 1989, six network news magazines have joined the ranks of "60 Minutes" and "20/20." Undercover reporting has become a regular news-gathering feature of these programs. "The competition is so severe . . . news is obliged to do unnewsworthy things to survive," says Marvin Kalb, director of Harvard University's journalism school. "Lying has become the rule when it should have been the exception. . . . It demeans journalism and badly damages the journalist and the public."

Television news magazine stories are costly and time-consuming to produce, especially when they involve undercover reporting. According to William Powers, media critic for the *New Republic*:

> These hidden camera investigations are costly, and it's hard for producers to go

Almost 100 years ago, writer Upton Sinclair used undercover methods to report dangerous practices in the meat-packing industry.

> back to the office and say the sorts of things newspaper reporters tell their editors all the time: "the story didn't really pan out," or "it's not as simple as we thought." Unlike newspapers, the networks don't have subscribers who will be back for the next edition no matter what . . . . They have to draw in a large audience for every show, or risk losing ratings and advertisers. And they do so by painting in broad, sensational strokes. In the case of Food Lion, it now seems ABC may have taken a perfectly respectable and interesting story about a supermarket chain with questionable labor policies and pumped it up to win higher ratings.

Still, many journalists are more troubled by Food Lion's tactics than ABC's. Robert Miraldi, journalist, professor, and author of the book *Muckraking and Objectivity*, has said: "Everyone is talking about the newsgathering techniques and not about what [ABC] found. It turns the whole thing on its head." He complains that by focusing on the methods the reporters used, Food Lion drew attention away from the serious claims ABC had made against them. Others respond that if ABC had done a better job of journalism, Food Lion would not have been able to do this. Still others view ABC's behavior as so outrageous that they believe the reporters created a story where none existed.

POINTS OF INQUIRY

1. What was the case about between Food Lion and ABC's "Prime Time Live"?
2. Do you think Food Lion should have sued for libel? Explain.
3. Do you think ABC should pay punitive damages for what it did? Explain.
4. When, if ever, do you think undercover journalism is justified? Explain.

Negative Local News—If It Bleeds, It Leads

The American public is concerned about crime and violence. In a poll conducted by the *Los Angeles Times*, 43 percent of those questioned stated that crime is the most important problem facing the nation. Yet figures released by the FBI show that violent crime has steadily decreased during the 1990s to its lowest rates since 1973. If crime rates are decreasing, why are so many people worried?

Some studies suggest that people's concerns about violent crime are not based on firsthand knowledge or on crime statistics. In a recent study, 65 percent of the people interviewed said they based their views about crime and violence on reports from the media.

LOCAL TV NEWS COVERAGE

Every evening, more than 700 television stations across the United States present their version of the local news. Most cover crimes and disasters extensively. Each year, the Denver-based Rocky Mountain Media Watch (RMMW) monitors the subject matter and length of each news story from 100 local television newscasts. A recent RMMW survey found that 72 percent of local newscasts began with stories about crime, violence, or disaster. In 1997, the Consortium on Local Television Surveys, formed by eight major journalism schools, found that crime and criminal justice make up almost 30 percent of the average local newscast.

Los Angeles has a reputation for being crime-ridden. Yet FBI statistics show that serious crime is declining more rapidly in Los Angeles than in the rest of the nation and that Los Angeles is among the safest of America's big cities. Urban League President John Mack charges that news crews rarely visit L.A.'s inner city unless violence occurs. "If one watches the evening news on local broadcasts," Mack stated, "they get the picture that Los Angeles is a war zone. They have created such hysteria that many people live in fear."

David Goldberg, news director of L.A.'s KTLA-TV Channel 5, admits that "crime

reporting around the local stations is disproportionate to reality. It helps drive the fear in our communities. You would think [Los Angeles] was one of the most dangerous places on Earth." In a recent *Los Angeles Times* poll, 80 percent of those interviewed stated that media crime coverage has increased their fear of becoming a victim of violent crime. In addition, television news critics charge that an emphasis on crime paints a negative portrait of the community.

THE MEAN WORLD

George Gerbner, former dean of University of Southern California's Annenberg School of Communication, calls this negative portraiture the "mean world" syndrome. According to Gerbner, when television news emphasizes crime and violence, viewers tend to overestimate the amount of crime in a community. Television coverage of violent events also increases people's fears that they are vulnerable to crime. "You live in a meaner world," Gerbner says. "You try to protect yourself more than your next door neighbor who watches less television and is less intent on crime publicity."

The predominance of crime-based news stories also tends to squeeze out other newsworthy stories. According to the Consortium on Local Television Surveys, only 15 percent of an average half-hour news program focuses on government or politics. Most local newscasts totally ignore education and race relations, perhaps two of the most important issues in America today. Featuring crime and violence at the expense of critical issues like race relations and education bothers many media experts. "We are the eyes and ears of the public and when we don't do [serious news stories], then journalists are failing the public," said Professor Patricia Dean of Northwestern University's Medill School of Journalism. "These topics start to fall off from the dialogue of democracy."

MOTIVATION OF LOCAL STATIONS

Why do stations lead with sensational stories of violent crime? Experts point to several factors that contribute to an emphasis on crime coverage in the television news. First, crime is full of human drama. Viewers are understandably captivated by stories that involve conflict, emotion, justice, and life-and-death struggles.

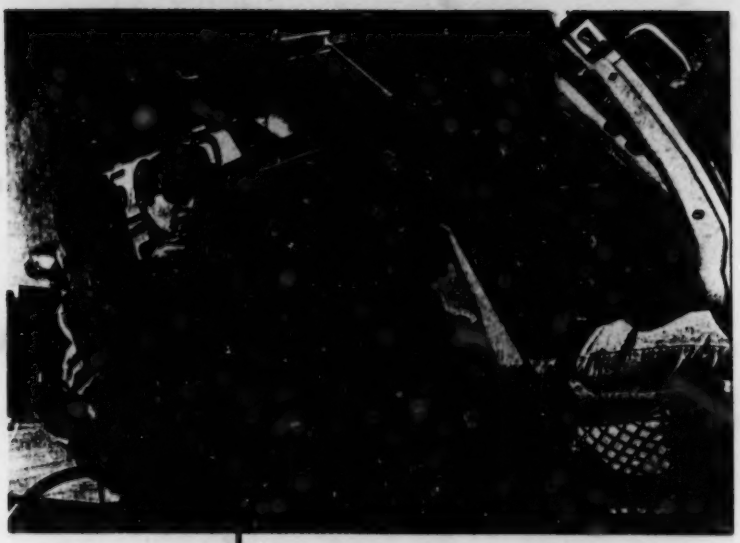
News directors at local television stations saw their ratings rise dramatically during coverage of the Simpson murder trial.

Second, many local stations have found that violent-crime coverage pushes up ratings. When Miami television station WSVN needed to improve its ratings in the 1980s, it turned to extensive crime coverage. *Newsweek* magazine dubbed the station "Crime Time Live." Within five years, however, the station moved from fourth to second place in the competitive Miami news market. WSVN's success with crime coverage triggered many copycat stations across the country.

Third, news coverage is popular and inexpensive. Compared to elaborate, studio-produced dramas and sitcoms, for example, the news is a low-budget item. With the advent of videotape, sophisticated video cameras, high-speed, high-quality tape-editing equipment, and news helicopters and other powerful, mobile transmitting units, news teams can efficiently cover a city's worth of news stories for relatively little money. With the rise in popularity of reality-based programming, local stations found that they could command premium advertising rates for a much smaller production budget than a drama or sitcom would require.

Fourth, violent crime is reliable. Stations can always find stories of violent crime somewhere in the nation. Station WSVN often looked outside Florida to fill their crime quota on slow days in Miami.

Fifth, crime is easy to cover. A crime story usually describes the bare facts of an event (who did what to whom, when and where the



News helicopters, lightweight video equipment, and mobile transmitters make it possible to for local stations to cover events quickly and efficiently.

incident took place, what witnesses saw or heard) and frequently requires little investigation or background research. News director Goldberg admits that "unfortunately, newsrooms find crime very easy to cover. It's their way of not having to work hard." A small, local station with a few reporters and limited resources can prepare a dramatic half-hour newscast full of fact-filled crime stories more easily than they can prepare in-depth coverage that may highlight more positive aspects of a community. Reporters have ready access to information from police, fire departments, and emergency services. Most newsrooms have scanning equipment to monitor police, fire, and other emergency radio frequencies. By monitoring these frequencies, reporters and camera crews are only minutes away from live, local coverage of a beating, a fire, a murder, or an auto wreck. Larry Perret, news director for a Los Angeles CBS affiliate said, "It's so easy to have helicopters flying around and when anything happens, you can cut to it live."

CRIME: PUBLIC ENEMY NUMBER ONE

Reactions to accusations of negative coverage in television news have varied. Crime and violence are unfortunate but real factors in many people's lives. A national study by the *Times-Mirror Corporation*, a major newspaper chain, found that most people believe television does not exaggerate crime. In the same study, a woman from an affluent Washington, D.C., suburb said she appreciates how the news alerts her to potential danger. "You go to the mall," she said. "You know [the local news] had a whole thing on crime in malls. You watch your purse, you lock your car."

Some criminal justice experts say that crime coverage can motivate people to take precautions to avoid becoming crime victims. Others believe that crime coverage on TV serves a civic purpose. They argue that television coverage of local crime and violence has led to broader support of public policies designed to address violent crime. In addition, crime-oriented broadcasts can be helpful in solving a crime by alerting citizens to a criminal on the loose.

Many news directors believe that crime-based coverage gives the audience what it needs to hear. Los Angeles news director Cheryl Fair said: "We don't cover stories based on statistics. We cover real stories on real people. People say they don't care about crime until it happens to them." KCBS General Manager John Culliton adds, "It is true that we have done too much crime coverage, but the people it affects consider it to be very important."

Catherine McPhate, a criminologist at the Joint Center for Political and Economic Studies weighed the pros and cons of violence in the TV news by saying, "these television stations are doing some kind of public service by making people take care that they don't become victims of crime. [But] they really have very little probability of being victims of crime. They lose a sense of security and a sense that they can go out in the community, be a part of it. If you weigh these two things, I think the bad far outweighs the good."

"SIGNS OF HOPE"

Some critics believe that much of the negativity on television news arises from a lack of commitment to the community the journalists are covering. In many urban areas, reporters, journalists, and broadcasters live in neighborhoods far from the streets where they cover the news. Joseph Benti, a former news anchor at Los Angeles' CBS affiliate explains, "If these folks had a real stake in the community and not just in a rating point, they would change."

Some news executives are trying to be more sensitive to the communities they cover. Several years ago, WBBM, a Chicago-based CBS affiliate, was boycotted by more than 200 local churches after it stepped up crime coverage in the city's predominantly African-American south side. Father Michael Flegger, one of the boycott organizers, said that "everything that went on in Chicago today was not bad. Many good things went on in Chicago today." WBBM agreed to hire more minority journalists and began running a weekly segment in the news called "Signs of Hope."

The news department of ABC affiliate KVUE took a different approach to local crime coverage. The Austin, Texas, television station ran a segment titled "KVUE Listens to You on Crime." The result was surprising. The station discovered that viewers were fed up with the steady barrage of stories about crime and violence. News Director Carol Kneeland decided to go on a "crime diet." As a result of its survey, KVUE journalists drafted a list of guidelines. To be aired, a criminal incident had to:

- Pose an immediate threat to public safety or to children.
- Require a need for community action.
- Impact the community in a significant way.
- Relate to a long-term crime-prevention effort.

In the next Nielsen ratings, KVUE had become the most-watched half-hour nightly newscast in the area, beating out three competitors.

KVUE has not stopped covering crime completely. A police monitor continues to blare in the newsroom, and KVUE news crews still race to crime scenes. "It's just that fewer [crime stories] get on the air," Kneeland claims, "clearing a little more room for news investigations and stories about education and finance." In addition, in the crime stories it does run, the station tries to focus on broader issues such as the causes of crime, rather than on individual acts of violence.

The model of Austin's KVUE may not work in larger cities. Jose Rios, news director at KTTV in Los Angeles, said "L.A. is so big, and the preponderance of crime is greater here than in Austin." Another L.A. newscaster called KVUE's guidelines a form of censorship. "It's not ethically where I would want to be," said News Director Steve Cohen. "It forces the journalist to be a gatekeeper." Cohen speaks from the position that a journalist should report what is happening in a community without picking and choosing what is appropriate. If crime is what's happening, then crime should be reported.

But KVUE's popularity speaks to opinions that some viewers have begun to express. In the words of syndicated *Washington Post* columnist William Raspberry, "It isn't that people don't want the information; they just don't want it in ways that breed despair."

POINTS OF INQUIRY

1. Why do you think local television stations place an emphasis on crime coverage?
2. Do you think extensive crime coverage harms or helps a community? Why?
3. How do you think broadcast journalists could lessen the negative impact of crime coverage?

Who Watches the Media? Ethics, Rights, and Responsibilities

Over the years, people have grown skeptical of the media. In 1971, a national survey found that CBS television news anchor Walter Cronkite was "the most trusted man in America." In 1979, a Gallup poll found that 51 percent of Americans rated the media as "trustworthy." In a recent survey conducted by *The Wall Street Journal* and NBC, only 21 percent of Americans rated the media as "honest" or "trustworthy." Journalism has become the focus of intense criticism. Why this loss of media credibility and what can be done about it? Answers to these questions may lie in the methods journalists use to gather and present their information.

Senator Bill Bradley (D–NJ) frequently appealed to the press to forget about Capitol Hill gossip and focus on political issues.

A BREAKDOWN OF TRUST

In 1996, a reporter for the *New York Post* posed as a relative of one of the passengers who perished on TWA Flight 800. On the basis of her claim, she was given a pass to memorial services and briefings that had been placed off-limits to everyone but the grieving families. The reporter was arrested and charged with criminal impersonation, trespass, petty larceny, and possession of stolen property.

A *Washington Post* reporter was awarded the Pulitzer Prize, one of the highest honors in the world of journalism, for a dramatic story called "Jimmy's World," the story of a child addicted to drugs in a poverty-stricken neighborhood of Washington, D.C. When editors at the *Washington Post* began to have doubts about the story, they asked the reporter to introduce them to Jimmy. The reporter was forced to admit that she had made up the whole story. The *Washington Post* made a public apology, fired the reporter, and returned the Pulitzer Prize.

In 1995, Bill Bradley, three-term senator from New Jersey, announced that he would not seek re-election. Senator Bradley expressed deep concern over political infighting that kept Capitol Hill legislators from dealing with critical issues such as corporate downsizing, access to health care, the crisis of crime, the environment, and the quality of education. In the aftermath of his announcement, most television and newspaper reporters ignored the issues Bradley had mentioned. Instead, they focused on the political battles that Bradley's retirement might stir up. Could the Democrats come up with a candidate strong enough to retain Bradley's U.S. Senate seat? Was Bradley planning to run against Clinton in the upcoming presidential elections? In an interview with a prominent CNN reporter, Bradley appealed to the press to stop talking about "who will win what race" and start talking about issues. The CNN reporter responded to Bradley's plea by asking, "Do you want to be President?" Senator Bradley threw up his hands in frustration.

TV Guide placed Oprah Winfrey's head on actress Ann-Margaret's body for a cover photo. Editors used computer graphics to bring together two major Hollywood stars on the cover of *Newsweek*. Producers from NBC's "Dateline" aired footage of a collision and vehicle fire that they had deliberately set and filmed to prove that General Motors trucks were unsafe.

For the viewing and reading public, journalists who fabricate stories or use fraud and deception to invade people's privacy have contributed to a breakdown of trust in the media. The focus on political combat at the expense of serious political discussion has made many journalists appear like trivial sensation-seekers. Staged and altered photos, televised re-enactments and simulations only plant more doubts in the public mind. The tabloid-style coverage of the death of Great Britain's Princess Diana brought public criticism of the press to the boiling point.

More than 95 percent of people polled by *USA Today* believed the princess had been unfairly hounded by the news media. The Center for Media and Public Affairs found that 80 percent of people surveyed thought the press ignored people's right to privacy; 52 percent thought the media abused their press freedoms.

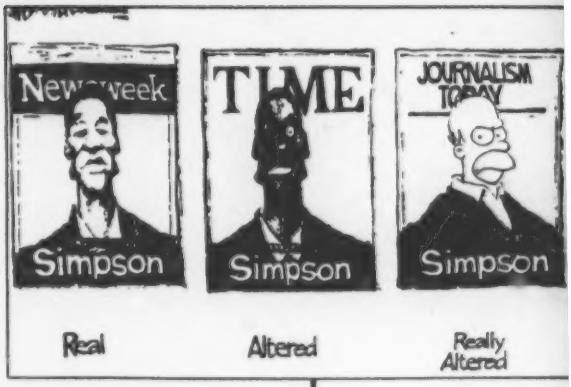
Many journalists are trying to respond to these criticisms. Investigative reporter Jacqueline Sharkey wrote in the *American Journalism Review* that criticism of the press in the wake of Diana's death "led the American media to re-examine fundamental questions about their role, responsibilities and relationship to the American people."

FREEDOM OF THE PRESS THREATENED

It is important that the media deal with the breakdown of public trust. For more than two centuries, freedom of the press in the United States has been guaranteed under the First Amendment to the Constitution. Journalists and their readers and viewers have placed great value on their freedom from censorship. The Society of Professional Journalists states that "public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues."

Freedom of the press has allowed journalists to speak openly about the abuse of power in government, to explore threats to the environment, and discuss the strengths and weaknesses of politicians and their plans. But freedom of the press has also allowed journalists to pry into people's private lives, distort information to fit the needs of a story, or use fraud and deception to gather information.

Journalists are often considered to be on a par with doctors, lawyers, educators, and other well-trained professionals. Like doctors and lawyers, journalists play a powerful and important role in modern society. But unlike most professionals, journalists have few rules and regulations guiding their behavior. Although most journalists today are college-educated, there are no formal educational requirements for news gathering. There is no mandatory degree in journalism like there is in law or medicine. There are no special examinations to pass. There is no review board to monitor the news and no journalism licenses to revoke in cases of unethical behavior. The fact that there are few formal limits or restraints on journalism stems largely from the independent role that journalists have enjoyed under the First Amendment Rights of freedom of speech and of the press.



Recent public reaction to journalism's shortcomings could pose a problem for journalism's independence. A 1997 Freedom Forum poll revealed that 85 percent of those questioned did not think that freedom of the press should automatically fall under the protection of the U.S. Constitution. Media critic Ben Bagdikian believes that journalists who present gossip as serious news, invade privacy, and resort to other unethical practices "strengthen arguments that tabloids and the mainstream press have gone too far."

Recently, federal and state lawmakers have proposed legislation designed to control unethical news-gathering practices. Legislation introduced by U.S. Senators Dianne Feinstein (D-Calif.) and Orrin Hatch (R-Utah) does not attempt to regulate publication of celebrity photographs. Rather, the legislation, called the Personal Privacy Protection Act, limits the action that celebrity-hunting photographers, called *paparazzi*, can take to get a picture. The bill forbids "persistent chasing or following," and includes zoom lenses and other high-tech probes in definitions of trespassing and invasion of privacy.

Some question the bill's constitutionality. "It burdens the First Amendment," said Ramona Ripston, executive director of the Southern California chapter of the ACLU. "A lot of the crimes mentioned [in the Feinstein bill] are already covered by state law," Ripston claims and adds, "We don't need more national crimes regulating the press."

Others believe that such legal restrictions on the news media would be acceptable. The survey conducted by the Center for Media and Public Affairs showed that 53 percent of those questioned favored licensing journalists, while 70 percent favored legal action against inaccurate or biased reporting.

ARE THE MEDIA BIASED?

Bias. Slanted. The absence of an equal or balanced presentation of differing or opposing viewpoints.

The mainstream media hold up objectivity as a goal for all journalists. Ideally, a good news story is descriptive. A good journalist does not interpret events, but strives to present a balanced, objective lineup of facts, background information, and opposing viewpoints. Editorials, commentaries, and essays that present opinions are always kept separate from the news. Still, many critics believe that modern news coverage is biased.

Bias, they say, is not necessarily intentional. Often, media bias is an unconscious reflection of the class, culture, and interests of the journalists who cover the events of the day. For example, men and women journalists might use different words to report a case of domestic abuse. Black, white, or Latino journalists might report the Los Angeles riots from differing points of view.

Many critics cite "loaded" language as a sign of media bias. For example, modifying words and phrases like "moderate," "extremist," "regime," or "special interest groups," can carry a positive or negative value. When attached to a government, a leader, or a political group, loaded language can slant a report without openly supporting or attacking the subjects it is describing.

News editors usually decide which stories will be featured and where they will be placed in a TV newscast or newspaper. A story that appears on page 22 of a newspaper or in the last minute of a television news broadcast will not attract the same attention as a story leading the TV news or an article published on page one of a newspaper. Editors try to be unbiased in their choice and placement of stories but they may not always be successful.

Politicians and other "special-interest groups" sometimes accuse the media of bias. Critics on the right tend to view the media as an elite corps of highly educated liberals. They claim that well-paid media professionals are out of touch with mainstream America. They assert that most journalists ignore or even ridicule conservative ideas and political agendas in their newspapers and broadcasts. They point out that most journalists consider themselves to be liberals and their journalism reflects this bias.

Critics on the left believe that most news organizations share and reflect the views and interests of corporate and government power. They claim that media corporations are driven by profit and a desire to maintain the status quo and protect their own interests. These critics frequently accuse the media of downplaying or ignoring important social, political, or environmental issues. In addition, they point out that the executives of news organizations are predominantly white, middle-aged, and male. Often, they say, women, blacks, and other minorities find it difficult to rise into positions where they might challenge the biases of the white, male status quo.

Defenders of the media point out that most journalists are trained professionals who use well-established techniques to answer straightforward questions such as: What happened? Who was involved? When and where did a news event occur? In addition, news organizations constantly check and balance each other's stories. A biased report in the *New York Times*, for example, would be quickly criticized by the *Wall Street Journal*.

Finally, the media have a powerful motivation to report the news in an unbiased manner. In order to attract and hold readers and viewers, news organizations must be believable. An unbiased press is a believable press. Media scholar Everette Dennis claims that "without credibility, which comes with impartial, professionally gathered and edited news, the media lose their franchise with the public."

These figures and the flood of proposed media legislation suggest that–in the eyes of the public–issues like fairness, accuracy, and an individual's right to privacy may be as important as freedom of the press. Steve Geimann, former president of the Society of Professional Journalists says, "We the press depend on the public support for all the rights and liberties that are built into the Constitution and the Bill of Rights. When public support disappears, our rights and liberties disappear."

WHO WATCHES THE MEDIA?

A number of independent, non-profit media "watchdogs" have been set up to monitor the media. Groups like The Freedom Forum, Accuracy in Media, Fairness and Accuracy in Reporting, and the Rocky Mountain Media Watch are generally made up of qualified journalists and media critics. They devise guidelines to judge whether journalists, newspapers, or other media groups are victims or perpetrators of news abuse. These groups scan the press, radio, and television, looking for bias, inaccuracy, and attacks on journalists' First Amendment rights.

Most of these media watchdog groups stand outside the world of mainstream journalism. Most media watchdog groups tend to focus on journalism that unfairly or inaccurately covers a special-interest group or partisan point of view. Their organizations often operate on a small budget and, beyond their ability to inform the public of a particular point of view, they offer few concrete suggestions for addressing journalistic abuse.

Many experts believe that self-regulation is the most effective way to ensure that journalists keep their right to free speech while they fulfill their responsibilities to the reading and viewing public. A number of private foundations have funded studies that focus on problems in the media. A national organization of news editors is working with eight U.S. newspapers to study issues of media credibility in their communities. Another group sponsors town meetings to address community criticism of negative reporting and race stereotyping.

APPLYING A JOURNALISTS' CODE OF ETHICS

Several media organizations have released codes of ethics that journalists can use as guidelines to help improve their performance. In their *Code of Ethics*, The Society of Professional Journalists (SPJ) states that the duty of the journalist is to provide a "fair and comprehensive account of events and issues." The Associated Press Managing Editors (APME) publishes a *Newsroom Ethics Policy*. In it, editors of the Associated Press write that journalists should "inform readers of events and facts that are important to their participation in a democracy." They should "expose wrongdoing and misuse of power," serve as a "constructive critic," provide a "forum for the exchange of comment and criticism from throughout the community," and "advocate the public interest."

But codes of ethics are merely guidelines. They are not enforceable laws, nor are they easy to apply to the complex, fast-moving events that journalists often cover. For example, the SPJ *Code of Ethics* advises that journalists should:

> Identify sources whenever possible. Question a source's motives before promising anonymity. Test the accuracy of information from all sources. Be judicious about naming criminal suspects before charges are filed.

The journalists and editors of the *Atlanta Journal-Constitution* were pressed with a deadline and an explosive, high-profile story in a city pumped up by the Olympics. Should they have depended solely on the word of law enforcement officers who told them that Richard Jewell was a suspect in the Olympic Park bombing?

The SPJ *Code of Ethics* advises journalists to:

> Resort to undercover methods only after all other methods of gathering information have been exhausted. Be sensitive when seeking interviews or photographs of those affected by tragedy or grief. Recognize that gathering or reporting information may cause harm.

CIVIC JOURNALISM—MAKING CONNECTIONS OR LOSING PERSPECTIVE?

Many people believe that our nation's civic life is in disrepair. They point to declining voter registration and poor showing at the polls on election day. They contend that many Americans feel they have no control over the quality of life in their community. They also believe that the media, by emphasizing negative news, may be feeding this sense of helplessness. A 1994 survey reported that 71 percent of respondents feel that the media stand "in the way of America solving its problems."

Civic journalism is a new form of journalism that seeks to help citizens overcome their sense of helplessness. Rather than discourage citizens from caring, civic journalists attempt to broaden news coverage by giving citizens a voice. Civic journalism encourages citizens to make news by looking closely at community problems and taking action to address them.

For example, the Charlotte, North Carolina, *Observer* joined local radio and television stations to take an in-depth look at crime in the city's neighborhoods. Reporters teamed up with citizen panels to determine the causes of crime. The paper sponsored town meetings where citizens could discuss solutions to crime and plan programs that would involve the community. Later, the *Observer* published a follow-up series that evaluated the effectiveness of their community crime-fighting efforts.

The Sioux Falls *Argus Leader* wrote a series on the economic threat to rural South Dakota communities. Reporters searched for solutions by profiling success stories in three rural communities. The *Argus Leader* called for communities to join a citizen-involvement initiative called "Community on the Rise." The paper arranged for a specialist on rural development to work with the community.

Civic journalism attempts to communicate with the reader in a variety of ways. The objective is not just to report on—or solve—a problem. Civic journalism helps produce better news coverage by building a two-way street between the news organization and the community it serves.

Critics point to another principle of journalism. News organizations have a responsibility to stand back from the news, to observe, report, and analyze events and issues. They believe that civic journalism attempts to shape the outcomes of community effort. They argue that active participation in the events and issues of a community destroys a journalist's ability to report the news fairly and accurately.

Other journalists are concerned with the added burden that public journalism places on newsroom resources. Conducting polls, surveys, and community forums takes time and energy away from covering the news of the day. They fear that civic journalism creates the potential for conflict of interest. For example, what if a media organization endorsed a project that failed or had adverse effects on the community? Would journalists be in a position to report that project's failure? Could a reporter fairly and accurately report both sides of a community issue if his or her editor was promoting a project to address the same issue?

Should the media move closer to the community they serve? Or should journalists stay at a distance in order to ensure that news coverage is objective?

The *New York Post* assigned a young reporter to cover TWA's handling of the crash of Flight 800. Should she have used deception to gain access to the grieving families of victims?

Under "Public Service" the APME's *Newsroom Ethics Policy* declares that "the role of the press suggest[s] a special responsibility to operate in the public interest." APME advises that journalists should:

> Provide the information citizens need to make informed decisions and participate effectively in civic life. Serve as watchdogs of the major institutions of society, monitoring the conduct of the public's business in government and the private sector.

The CNN reporter who questioned retiring Senator Bill Bradley was trying to make her interview upbeat and interesting. Should she have asked Senator Bradley questions about crime, education, and the nation's economy or about political duels on Capitol Hill?

Paul McMasters, the Freedom Forum First Amendment ombudsman, believes that journalists must act quickly to improve their reputation. If distrust continues, "it will be a travesty for the public," McMasters claims. "A law that is meant to help a future Princess Diana will be abused to restrict coverage that might expose corruption or malfeasance." McMasters believes that "freedom of the press in the United States depends as much on how we fulfill our responsibilities [as journalists] as it does on how we exercise our rights."

POINTS OF INQUIRY

1. List some reasons experts give for the breakdown of public trust in the media.
2. Do you think laws should be passed to control the media? Why or why not?
3. What is a code of ethics? How could a code of ethics help restore trust in the media?

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CHAPTER 3

FREE PRESS/FAIR TRIAL

The Media and High-Profile Court Cases

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. . . .
–Sixth Amendment to U.S. Constitution

In the American criminal justice system, a defendant is entitled to a fair trial. The judge should be evenhanded, the witnesses truthful, and the jury should base its verdict solely on the evidence presented in court. The criminal trial, governed by rules of evidence, is not supposed to be influenced by events outside the courtroom. In most cases, it isn't. But when a case attracts publicity, the criminal justice system faces problems.

Millions watched on television as O.J. Simpson's car led police on a low-speed chase on Los Angeles' freeways.

Perhaps no case better illustrates some of these problems than the trial of O.J. Simpson, the former football star and well-known celebrity. In June 1994, Simpson was charged with murdering his ex-wife Nichole and her friend Ron Goldman. The story attracted immediate media interest. When Simpson disappeared from where he was supposed to be arrested and took police on a low-speed (and nationally televised) chase on Los Angeles freeways, the media exploded into a frenzy. This was "the most famous person ever tried for murder." His trial would be the "trial of the century."

The prosecution and defense teams fed stories to the media. Members of the district attorney's office went on camera and declared Simpson guilty. The media repeatedly played tapes of a 911 call for help that Nicole Simpson had made a year previously. The defense leaked a story that a racist cop had planted evidence.

Supermarket tabloids, tabloid TV, and the mainstream press all competed for scoops. Many stories appeared ("Murder weapon was gardening tool," "Bloody ski mask found at murder scene," "Prosecutor at crime scene before warrant issued") that later proved false. The press sought out witnesses before they testified. The tabloid press even paid some witnesses for their stories.

Selection for trial jurors began in late September. It didn't conclude until early December, because the judge conducted a careful selection process, attorneys challenged numerous jurors, and it was difficult to find jurors who had not formed firm opinions on the case.

When the trial began in January 1995 before Judge Lance Ito, more than 1,000 journalists were covering the story. It took 80 miles of cable to reach all the media trucks parked outside the courthouse. Many television stations carried gavel-to-gavel coverage of the trial. A small army of legal experts provided commentary for television and radio. For nine months, until Simpson's acquittal, the trial captured the media's full attention. CNN's ratings soared. The National Enquirer added 500,000 new readers. And the criminal justice system endured one of its severest tests.

The trial raised many issues. We'll look at three–paying witnesses, ensuring an impartial jury, and televising trials.

MEDIA-PAID WITNESSES

The night the murders took place, Jill Shively said says her car almost collided with-a car driven by O.J. Simpson close to Nicole Simpson's house. She is the only witness to place Simpson near the murder scene. She testified at a grand jury hearing before the trial. But prosecutors learned that Shively had been paid $5,000 by "Hard Copy" (a tabloid TV show) before she testified. Because of this, they never called her as a witness at the trial.

Jose Camacho, a clerk in a knife store, said that six weeks before the murders he sold O.J. Simpson a 15-inch knife. After he testified to

the grand jury, he said the tabloids hounded him for his story. He sold it to the *National Enquirer* for $12,500. Because he had sold his story *after* he testified to the grand jury, the prosecutors let him testify again. But on cross-examination, a Simpson defense attorney attempted to discredit his testimony by asking him many questions about how he sold the story.

Many attorneys think that jurors distrust witnesses who sell their stories. They're paid for telling an exciting story, and they might enhance their story to get more money. Some people might even lie.

Most mainstream news organizations don't pay for stories. Tabloids do, and they make no apologies. They say mainstream news organizations may not pay money, but they offer people tremendous media exposure. They also point out that the government has been "paying" witnesses for years by offering criminals lesser sentences for their testimony.

Following the Simpson trial, the California legislature passed a law making it a crime for news organizations to pay anyone who is a witness to a crime before a trial is over. Various media groups immediately sued to stop enforcement of this law. They say the law goes too far. There are many crimes–from domestic violence to campaign financing violations. Significant stories might go unreported.

Further, in special cases, like the Simpson case, a judge has the power to issue a gag order on witnesses. This would prevent all witnesses at that trial from talking to the media about the case. There's no reason, therefore, for creating this law, say its opponents.

ENSURING AN IMPARTIAL JURY

Finding an impartial jury is often a problem in high-profile cases. Jurors must base their verdict solely on what they observe in court. In 1966, the Supreme Court in *Sheppard v. Maxwell* reversed the murder conviction of a wealthy Cleveland doctor. The trial judge had done little to weed out jurors who had formed fixed opinions from pretrial publicity or to shield them from the media circus that took place during the trial. The Supreme Court held that when there is a "reasonable likelihood" that a fair trial will not occur, judges must act to protect their courts from outside influence. Since the *Sheppard* case, judges have relied on various remedies to combat the effects of press publicity on jurors.

During the Simpson murder trial, guards at the L.A. Criminal Courts Building read a tabloid showing gruesome pictures of the crime scene.

In the Simpson case, Judge Ito primarily used three of these remedies: He conducted a rigorous **voir dire,** the examination of prospective jurors. All jurors had to complete lengthy written questionnaires as well as undergo extensive oral questioning. This process helped exclude those with prejudiced viewpoints and those seeking fame or fortune through serving on the jury. Even so, the judge ultimately had to use alternates to replace several jurors, one of whom was allegedly writing a book.

Once the jury was selected, Judge Ito **sequestered,** or isolated, the jury. Jury members lived and ate their meals at a hotel. They were shielded from all the Simpson media coverage and most contact with the outside world. But sequestration puts great strain on jurors. Because the trial lasted so long, the judge allowed jurors occasional visits from their spouses.

Throughout the trial, the judge **admonished** the jury not to get any outside information. Before the jury began deliberating, he instructed the jury to base its verdict solely on the evidence presented at the trial.

Judge Ito rejected or could not use other remedies that judges have tried. A **change of venue**, or moving the trial to another area, wouldn't have helped, because the case was highly publicized everywhere. He couldn't grant a **continuance**, or a delay, of the trial until the publicity died down, because the defense insisted on its Sixth Amendment right to a speedy trial. Nor could he take direct action against the press. The Supreme Court has ruled that the media have a First Amendment right to attend and report on trials. The court has said this right may be limited only if no other method can ensure a fair trial.

The scene of another "trial of the century"— the 1935 trial of Bruno Richard Hauptmann for kidnaping and murdering the Lindbergh baby.

But Judge Ito probably could have imposed a **gag order** on the attorneys in the case. Judges may severely restrict prosecution and defense attorneys talking about a case outside of court if a "substantial likelihood" exists that it would undermine a fair trial. This order would have stopped the attorney press conferences that took place almost daily, but it may not have prevented leaks to the press as these are usually impossible to trace.

CAMERAS IN THE COURTROOM

Judge Ito also could have kept television cameras out of the courtroom. Like in most states, judges in California decide whether television cameras may cover a trial. After much deliberation, the judge permitted the cameras. This was becoming a common occurrence in state courts.

It hadn't always been so. Cameras got a bad reputation following the 1935 trial of Bruno Richard Hauptmann for kidnaping and murder. The victim was the baby of American aviation hero Colonel Charles Lindbergh. This sensational case, promoted in the media as the "trial of the century," drew hordes of reporters to the small New Jersey town where the trial was held. Apparently without the judge's knowledge, a sheriff allowed a newsreel camera to film the trial on condition that nothing be shown until after the trial. When footage appeared on movie screens across the nation during the trial, the judge banned the camera. Though Hauptmann was convicted, some questioned whether he received a fair trial. Following the trial, the American Bar Association, the foremost national organization of lawyers, recommended that cameras be barred from courtrooms.

But in the 1950s a few Western states began to experiment with televising trials. In 1965, after a highly publicized televised trial in Texas, financier Billie Sol Estes appealed his swindling conviction to the U.S. Supreme Court. At the pretrial hearing, the judge had allowed a camera crew with bulky cameras, cables, and microphones to televise the proceedings. By the time of trial, the cameras had moved to a booth at the back of the courtroom and, following the judge's orders, broadcast little of the trial. Estes claimed the intrusive presence of the cameras denied him a fair trial. By a 5–4 vote, the Supreme Court agreed. Four members of the majority concluded that broadcasting trials "will inevitably result in prejudice." In a concurring opinion that seemed to foresee the Simpson trial, Chief Justice Earl Warren warned that television might treat trials like football games by providing "expert commentary" and hiring "persons with legal backgrounds to anticipate possible trial strategy, as the football expert anticipates plays for his audience." But the fifth justice in the majority, John Harlan, did not want to close the door entirely on television. He said that "the day may come when television will have become so commonplace" to the average person that it will no longer disrupt the judicial process.

Following the *Estes v. Texas* decision, cameras disappeared from courtrooms. But within 10 years, improved technology made cameras smaller and less intrusive. Television for the average person had become commonplace. And courts in Florida started experimenting

with television again. In 1981 in *Chandler v. Florida*, the Supreme Court once more faced the question of television cameras in the courtroom. Two Miami police officers, convicted of burglary, appealed their convictions because the judge had allowed television cameras in the courtroom. A unanimous Supreme Court upheld the convictions, saying that the mere presence of cameras did not make the trial unfair. According to the court, the defendants must show that the media—whether print or broadcast—prejudiced the trial. This decision, in effect, allowed states to introduce television in courts.

Forty-seven states adopted rules allowing cameras. Federal courts even experimented with them. Then came the Simpson trial. In its wake, many who had favored televising trials began to have second thoughts. All the high-profile cases conducted in its aftermath—Susan Smith's trial for murdering her two sons, the second Menendez murder trial, the trial of Yolanda Saldivar for murdering pop singer Selena—were conducted without cameras. The federal judiciary ended its experiment with cameras.

The arguments against cameras echo those expressed in the *Estes* decision. The camera changes how trial participants act. Lawyers and judges play to the camera and prolong the trial. It creates instant celebrities out of witnesses who may fear the large television audience or may crave the attention. Witnesses, normally excluded from the courtroom, may be able to watch other witnesses testify and change their testimony accordingly. The jury, recognizing that many people are watching, may cater its verdict to popular opinion. The television audience may consider itself the 13th juror—a juror more informed than the actual jury because it may see evidence the jury doesn't and it hears the informed commentary of legal experts. Hence the jury may lose its authority and verdicts might be second-guessed. The public isn't educated by these trials. It watches for entertainment. Television turns a serious trial into a media circus and makes the public think the justice system doesn't work. In fact, opinion polls following the Simpson trial showed the public had lost faith in the criminal justice system.

Supporters of cameras say these arguments don't match reality. Studies of televised trials have shown that cameras don't affect the participants. In the Simpson case, the attorneys on both sides didn't alter their normal styles of presentation. Judge Ito, known for letting attorneys argue every point, did just that. Witnesses in high-profile cases will become instant celebrities without any cameras. Witnesses can read about other witnesses' testimony in the newspaper just as easily as watching it on television. Studies show that jurors take their jobs seriously and do not cave into public opinion. Juries will always be second-guessed—whether or not there are cameras. The circus in the Simpson case took place outside the courtroom (as it did in other recent non-televised, high-publicity trials). Much of the criticism of the criminal justice system following the Simpson case can be attributed to justifiable concerns, such as the extraordinary length of the trial (which California courts are known for) and the mishandling of evidence by the police laboratory. Most public opinion polls taken after televised trials show an increase in respect for the justice system.

Bodyguards escort defense attorney Johnny Cochran through a maze of media at the O.J. Simpson trial.

POINTS OF INQUIRY

1. Do you think there should be laws against media organizations paying witnesses? Explain.
2. The article mentions several remedies that judges can take to ensure an impartial jury. Which do you think are the most effective? The least effective? Why?
3. What are the advantages of cameras in the courtroom? The disadvantages? Do you think they should be allowed in the courtroom? Explain.
4. What other problems do you think highly publicized cases cause for the justice system?

Information-Age Checklist: Research
F I L T E R

Since it's the Information Age, we all have access to a lot of information. But it takes skill to sort through it all and find exactly what you want to know. Use the tips in FILTER when you research a subject. They will make your research much more efficient.

Focus. Before you go looking for information, write down exactly what you are looking for. This will help you guide yourself through the vast ocean of information. It will also help when you ask a reference librarian for help, when you do searches on the Internet, and when you interview experts.

Internet. Use keywords for looking on a search engine, like Hotbot (www.hotbot.com), or use an Internet catalog, like Yahoo (www.yahoo.com), which allows you to keep narrowing down your subject until you find what you want. Search engines will return many hits, most of them useless. If you find nothing after looking at 20 hits, try different keywords. All Internet search engines and catalogs have pages giving search tips. Take a few minutes and study them. You'll save time in the long run. When you find a good site, check its reliability (use SEARCH on page 71). In general, the most reliable sites are run by the media and government. We have listed useful links for Internet research on Constitutional Rights Foundation's web site (www.crf-usa.org).

Library. This should be your major resource. For best results, try the main branch of your public library or a college library. Ask the reference librarian to point you in the right direction. Look for different kinds of sources, e.g., encyclopedias, books, magazine and newspaper articles. And if your subject is controversial, get different viewpoints. Your library will probably have separate computer catalogs for books and periodicals. When you find a relevant book or article in a catalog, the catalog will list additional subject headings. Search under these headings as well.

Take notes. Put them in your own words. Write clearly and on one side of the paper only. Use a spiral notebook or note cards. Note cards are useful if you're doing a research paper because you can put one point on each card and sort the cards point by point. If you use a notebook, leave wide margins so you can add notations.

Experts. In your research, keep track of names of people and organizations interested in your topic. These can be the authors of books and magazine articles, reporters, government officials, and non-profit groups. On the Internet, you can search for organizations, and one site—Ask an Expert (www.askanexpert.com)—lets you send e-mail to experts in various fields who will respond to questions. You can also find organizations in Gale's *Encyclopedia of Associations* (at libraries) and in your local phone book. If you find an expert, write the person or organization a polite note with two or three questions you want answered. If the expert is local, call and try to set up a brief interview. Why will experts talk with you? Because they're interested in the subject. If you show an interest, they likely will respond.

Record. Write down each of your sources. Keep track of where you've looked, even dead ends. That will keep you from unwittingly searching the same place twice.

Protecting News Sources

To get news stories, reporters interview people. Sometimes people will only talk off the record, because they don't want their names mentioned in the media. This is especially true when reporters are investigating crimes. A woman working for a company that pollutes may fear losing her job if she tells a reporter what she knows. A man who has inside information on organized crime may fear for his life if he talks to a reporter. Yet they both may talk if the reporter can promise that their names will never be revealed. Many investigative news stories, containing information of vital public interest, have resulted from reporters promising not to betray how they got the information. It's become part of a journalist's code not to reveal sources.

Yet this refusal to reveal sources can conflict with the criminal justice system. At trials, almost anyone called as a witness must testify. This is basic to our system of justice. The Sixth Amendment to the U.S. Constitution grants criminal defendants the right to call witnesses to testify.

May a reporter who is called to testify at a trial refuse because the reporter doesn't want to betray a source?

In ordinary circumstances, if a person refuses to testify, the judge can hold the person in contempt. This can result in jail time and fines until the person agrees to testify.

But there are exceptions. The Fifth Amendment gives every person the right to refuse "in any criminal case to be a witness against himself." All states have adopted various privileges, derived from traditional English common law. Thus the husband-wife privilege allows spouses not to testify against one another. The attorney-client privilege prevents lawyers from testifying about what their clients tell them. The doctor-patient privilege keeps doctors from revealing their patients' secrets in court. Courts and state legislatures allow these privileges even though important testimony will be lost. Without these privileges, husbands and wives, attorneys and clients, and doctors and patients would not trust each other.

Does the First Amendment protect journalists from testifying at trials?

For many years, journalists have argued that they should have a similar privilege. About 30 states have adopted so-called "shield laws," which offer reporters some protection from testifying. They vary widely—a few giving reporters absolute immunity from testifying, most offering limited protection. Some apply only to full-time media reporters; others include freelance reporters as well. Congress has never enacted a shield law for federal courts. With protection limited, reporters sometimes face the difficult decision of going to jail or testifying and betraying a source.

Journalists say that they should never have to make this decision. They argue that forcing them to testify violates the First Amendment, which guarantees a free flow of information. Making reporters testify restricts information, they argue, because many sources won't talk with reporters without promises that their names will not be revealed. In 1972 in *Branzburg v. Hayes*, the U.S. Supreme Court took up the question whether the First Amendment shields reporters from testifying.

Branzburg involved three separate cases, which the court put together because they presented the same issue. In one case, a reporter had written a series of articles on drug abuse based on his interviews with drug users. In another case, a reporter had written extensively about the Black Panthers, a radical black

HOW WELL DO THE MEDIA PORTRAY CRIME AND THE CRIMINAL JUSTICE SYSTEM?

Many people depend on the media for information about crime and the criminal justice system. The media can sometimes, however, present a rather distorted picture. For example, take a few seconds and judge whether each of these statements is TRUE or FALSE:

1. People over 65 years of age fall victim to more violent crimes than any other age group.
2. One of the most common violent crimes is for a child to be kidnaped by a stranger.
3. The average police officer fires a weapon at least once a month in the line of duty.
4. Each year more than 1,000 police officers die on the job.
5. When prosecutors drop a case, it's usually because the judge has excluded important evidence.
6. About 20 percent of all criminal cases end with plea bargains; the rest go to trial.
7. Few prisoners in maximum-security prisons belong to gangs.
8. Compared to other countries, the United States has a small percentage of its population in prison.

We'll now take a look at the answers. If you get most of them right, that's excellent. But the media could easily have led you to answer incorrectly. Let's see why.

The first two statements deal with crime victims. Both are false. Those 12-15 years of age experience the most violent crime. The elderly as a group actually experience the least. Fewer than 5,000 children are kidnaped by strangers each year (compared to the more than 2 million violent crimes that are committed each year). But the media tend to focus on more helpless crime victims—such as the very young and very old—and on terrifying crimes. They make compelling stories. It may make you think these types of cases are common.

Statements 3 and 4 involve the police. Both are false. Many police officers never fire their weapons (except on the firing range) their whole careers. Any officer who shot a gun once a month would likely be dropped from the force. But in movies and television, the police often engage in gun fights. When an officer dies, this makes big news. This may leave the impression that it's a common occurrence, but statistics show that about 150 die on the job each year.

Statements 5 and 6 concern the prosecution of criminal cases. Both are false. Prosecutors drop many cases. But it's because either they don't have enough evidence or witnesses won't cooperate. Less than 1 percent of the cases are dropped because evidence is excluded. In movies and television dramas, however, judges constantly seem on the verge of throwing out evidence and ruining cases. As for trials versus plea bargains, in most places more than 90 percent of all cases end in a plea bargain instead of a trial. But trials are much more dramatic (and easier to cover), so news stories and dramas focus on them.

Statements 7 and 8 relate to the corrections system. Both are false. A large percentage of prisoners belong to gangs. It's almost necessary for survival. As to the percentage of prisoners, only Russia has a higher percentage of its population behind bars. People might get these answers wrong because, of all the parts of the criminal justice system, the media pay the least attention to prisons. Numerous reporters cover crime, police, and the courts. Almost no one covers prisons. It would be a difficult beat. Of the recent movies on prisons, some have shown prison gangs. But most either ignore gangs or are about previous eras when gangs weren't so dominant.

With the media focusing on sensational and dramatic stories, it's easy for people to get wrong impressions on crime and the criminal justice system. Do you think these false impressions could affect how people view important policy questions on the justice system?

group who federal authorities in San Francisco were investigating about a possible plan to assassinate President Nixon. The final case involved a reporter who had spent one night at a Black Panther headquarters in Bedford, Massachusetts, waiting for a police raid, which never took place. All three reporters had been called to testify before grand juries. None of the reporters was protected by shield laws. All three refused to testify, citing the First Amendment.

In a 5–4 decision, the court declared that the reporters must testify. Writing for four of the justices in the majority, Justice Byron White said that the First Amendment does not protect reporters or the "average citizen from disclosing to a grand jury information that he has received in confidence." He added: "We cannot seriously entertain the notion that the First Amendment protects a newsman's agreement to conceal . . . evidence . . . on the theory that it is better to write about crime than to do something about it." White did say that shield laws were permissible and that reporters must be called to testify for valid reasons and not for harassment.

The fifth justice in the majority, Justice Lewis Powell Jr., wrote a separate concurring opinion. He said that, although he agreed with the results in this case, a balance must be struck between press "freedom and the obligation of all citizens to give relevant testimony."

Writing for three of the dissenters, Justice Potter Stewart stated: "The right to gather news implies . . . a right to a confidential relationship between a reporter and his source." Stewart proposed that before a reporter should be forced to testify, the government must show (1) the reporter has information relevant to a crime, (2) the information cannot be obtained in other ways, and (3) a "compelling and overriding interest in the information."

The fourth dissenter, Justice William O. Douglas, believed a reporter could never be forced to testify. He said: ". . . absent his involvement in a crime, the First Amendment protects him . . . and if he is involved in a crime, the Fifth Amendment stands as a barrier."

When *Branzburg* was decided, the press thought it had suffered a major defeat. But strangely enough, *Branzburg* has been interpreted by lower courts to give reporters a limited privilege against testifying—much like what Justice Stewart proposed. This is because of how the justices voted. The justices split four-to-four. Powell, the swing vote, voted to compel the reporters in this case to testify, but stated that the First Amendment did give reporters a limited privilege not to testify.

POINTS OF INQUIRY

1. **Why is it reporters want to keep their sources confidential? Do you think this is important to reporting news stories? Explain.**
2. **Why does the law require almost everyone to testify at criminal trials?**
3. **What were the four opinions given in the *Branzburg* case? Which, if any, do you agree with? Why?**

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CHAPTER 4

THE MYTH MAKERS

Myths, Rumors, and Legends

It can happen sitting around a campfire, or at a slumber party, or just hanging out on a "nothing happening" Friday night. Somebody begins to tell a story. . .

This happened to a guy in Woodbridge. My cousin told me about it and he swears it's true. This guy was driving down the old State Highway, coming home late after the homecoming dance. Suddenly, in his headlights, he saw this girl hitchhiking on the side of the road. Thinking she had car trouble, and because no one was around, he pulled over and stopped. The girl asked him for a ride into town.

Myths and legends often express commonly held fears about death, disease, or disasters.

"Sure," he said, "hop in."

She was really pretty and nice, but she was dressed kind of weird. They were talking and stuff, and he realized he really liked her. When they got to town, she asked him to pull over at the corner of Jackson and Cemetery Road. She said she lived near there, but didn't want to drive up in front of her parents' house in a strange car.

He asked her for her phone number and she gave it to him. He reached over and took the white carnation off his jacket and handed it to her. She kissed him on the cheek, then she was gone. Her name was Jamie.

The next night he was really nervous, but dialed her number anyway. After about 10 rings, a voice answered the phone. It sounded kind of old, so he thought it must be her grandmother or something. "May I talk to Jamie?" he asked.

"Who's this?" creaked the voice.

"Just a friend," he said.

"I don't know who put you up to this, but it is a very cruel joke," the voice shrieked. "Everybody knows my daughter Jamie died in a car crash on State Highway in 1959."

The phone clicked dead.

The next day the guy and a couple of his friends decided to check it out. They went to the city cemetery. Sure enough, there next to the main gate on Cemetery Road was Jamie's grave. But that wasn't the weirdest part.

Sitting on top of her tombstone was the white carnation.

* * *

What you have just read is an urban legend, sometimes called an urban myth. It is called the Vanishing Hitchiker. It has been told in various versions for many years all around the United States. It has been featured in movies and television shows and served as the basis of popular songs.

Urban legends are really modern folklore. Folklore is often defined as material that is verbally communicated from generation to generation in various social groups. Social groups change the material to fit their own cultural needs or regional differences. Folklore can include stories, rhymes, proverbs, riddles, songs, and anecdotes.

Urban legends are very similar, but are usually said to be true. They also pass from person to person and from region to region, often orally. Of course, in our media age, the stories are often helped along by newspaper columns and television and radio broadcasts. They are found in various versions in different times and different places. Many times, these tales, though seemingly modern, have very old origins. For example, in the Vanishing Hitchhiker story, versions have been found in which a person in a horse-drawn carriage stopped to pick up the stranded spirit.

The 1996 crash of TWA Flight 800 led to a flurry of rumors about its cause.

ELEMENTS OF AN URBAN LEGEND

Although urban legends can be very different, they often share common characteristics. An urban legend may:

1. Appear suddenly and spread widely, often in different versions.
2. Have elements of humor or horror.
3. Contain moral content, such as when a character in the story is punished or humiliated for breaking social rules or traditions, sometimes by bizarre means.
4. Express societal anxiety about common fears, such as death, technology, disease, or modern living.
5. Contain an element of truth, but rarely, if ever, have actually happened.

Jan Harold Brunvand, a recognized expert in folklore and urban legends, has collected many tales that demonstrate these characteristics. For example:

The Choking Doberman: A woman returns home and discovers her large dog, a Doberman, choking for air. She rushes him to a veterinarian who performs an operation to remove the obstruction. The woman returns home to wait and finds the telephone ringing. It is the veterinarian calling. He tells her to get out of the house immediately and to call the police. As it turns out, he found three human fingers lodged in the dog's throat and assumed there must be a burglar in the house. The police arrive and find the culprit, bloody and unconscious in the closet.

This legend contains elements of horror and strange punishment for misdeeds. It sprung up quite suddenly in 1981 in a Phoenix paper, which set the story in Las Vegas. Research revealed that no such incident actually took place, but elements of the story go back to ancient fables in England.

The Poodle in the Microwave: In this story, a woman gives her pet toy poodle (or sometimes, her cat) a bath. Having recently purchased a microwave oven, she is amazed how quickly and efficiently the appliance works. Deciding to experiment, she places her pet in the microwave to dry it. The animal explodes.

Like other legends, research fails to find any proof that this incident ever took place. It does express fear and anxiety about a new technology that was just coming into common use when the story first appeared.

Alligators in the New York City Sewers: According to this legend, a number of years ago, New Yorkers would vacation in Florida and bring home "live baby alligators" for pets or as children's souvenirs. But once the cute baby alligators turned into bigger alligators,

people decided to dispose of them. So they flushed them down the toilet. In the sewers, they grew into huge alligators often frightening city workers and sometimes emerging from manholes. No matter what the city does, it still can't rid the sewers of the beasts.

This legend contains elements of horror, anxiety about modern city living, and a moral about not taking wild creatures out their own environments. Though there is no evidence that there are really alligators in New York City sewers today, the story may have a basis in fact. According to anthropologist Loren Coleman, a 1935 *New York Times* article reported that youths, who were shoveling snow into a manhole, saw an alligator below and that the creature was killed by rescuers.

Finding an actual source for an urban legend is unusual. Most of the time, people telling the story, though they may be convinced that it is true, will say they heard it from a friend or read it in the paper. When that source is checked out, there are similar results. Rarely can the actual event or the people involved be verified.

THE RUMOR MILL

Similar to urban legends are something we are all familiar with: rumors. We hear them at school and in the neighborhood. Sometimes they are even about us.

A rumor is talk or an opinion that is widely communicated without a definite source or proof of its truth. Like urban legends, the original source of a rumor is often difficult to pin down. Rumors, however, are not usually as well developed as an urban legend and usually relate to a person, entity, or event. And while some are true, many are not. False rumors can cause great harm to reputations.

Soon after the crash of Flight 800, the Paris-bound airliner out of New York in 1996, rumors began to spread that the plane had been accidentally shot down by the U.S. Navy or hit by a missile fired by terrorists. The rumors fueled speculation that the government was engaged in a cover-up of the incident. Federal authorities, including the FBI, fully investigated the claim for 16 months and found no basis for the stories.

For years, the Procter and Gamble company was plagued by false rumors that its logo was an occult symbol and that the corporation somehow promoted devil worship. The rumors spread by word-of-mouth, mail, and fax and hurt sales among some Christian groups. Every time the company countered the rumors, they popped up again. Eventually, the company was forced to mount a major public-information campaign costing millions of dollars.

More recently, the makers of Snapple Ice Tea had to take similar measures to counter widespread false rumors that the labels on their bottles contained a representation of a slave ship. The rumors damaged sales among African-Americans and forced the company to implement an expensive public-relations effort.

Urban legends and rumors are a part of life. Though often not true, they tell us something about the society in which we all live. While it might be fun to tell and hear tall tales and spread rumors, the listener should beware about how much to believe and careful about passing them along.

POINTS OF INQUIRY

1. Based on the descriptions in the reading, have you ever heard an urban legend? If so, what was it? Which of the characteristics did it contain?
2. Have you ever been the subject of a false rumor? How did it make you feel? What did you do about it?
3. What advice would you give to someone who believes an urban legend or rumor?

BLURRING THE LINES BETWEEN FACT AND FICTION

Movies are a powerful force in American culture. They offer us adventure, drama, and a window on the rest of the world. In recent years, on television and cable and in theaters, there has been an explosion of movies based on real events, both modern and historical. Sometimes called docudramas, they combine elements of the documentary form, which is supposed to be non-fictional, and drama, which is fictional. In some cases, this form of movie has come under attack by historians or other experts who claim that docudramas can distort history and mislead the public about important events.

In 1992, producer and director Oliver Stone released his movie *JFK*, a docudrama on the assassination of President John F. Kennedy in 1963. Based on the investigations of Jim Garrison, the one-time district attorney of New Orleans, the movie mixed actual news footage with purely fictional scenes. It offered the controversial conclusion that the president had been murdered as the result of a conspiracy involving high-placed officials in the federal government.

Historians of the era and actual participants in the events criticized Stone for freely making up characters and situations to support his conspiracy theory and for misleading the public about what actually happened. Stone defended his production stating that there was a basis for his speculations and that the movie-going public could distinguish fact from fiction. He also argued that even Shakespeare in his historical plays freely rearranged facts to support the drama.

In a more recent example, controversy erupted over the 1996 movie *Hoodlum*. This docudrama was set in New York City in the 1930s and told the stories of real-life gangsters Dutch Schultz, Lucky Luciano, and others as they waged war for control of vice operations. Also portrayed was a legitimate American hero, Thomas E. Dewey. Dewey, a gangbusting special prosecutor, waged a legal crusade against the mobsters and sent several to prison. He also became governor of New York and ran for president, losing by only a thin margin in the 1948 campaign. But in this movie, the Dewey character was shown as a crook taking bribes from gangsters. In historical truth, Dewey never took bribes and was scrupulously honest.

Many critics of the movie dismissed it as being a flawed film. But the family of Dewey saw it as a false and vicious attack on his reputation. Unfortunately, there was little they could do. Under libel laws in most states, family members cannot sue to protect the reputation of dead relatives. Dewey's son sent a letter to Frank Mancuso, the Chairman of MGM, the company that made the film. The letter asked MGM to set the record straight about Thomas Dewey. Lawyers for the company replied: "The film was a work of fiction, and it was presented as such to the public. MGM has not violated any legally cognizable rights of either your father or your family."

The Deweys took their case to the public by writing newspaper articles and appearing as guests on public affairs talk shows. Still, the question remains: Should laws be passed that protect the dead from having lies told about them in books or movies? If not, what moral or ethical obligations should movie producers or writers have for telling the truth about history, even in "fictional" works?

Conspiracy Theory

Events in history intrigue people–the Kennedy assassinations, the crash of the Hindenberg, the bombing of Pearl Harbor. On almost any event, you can find much information–in books, in magazines and newspapers, on the Internet, even in movies and broadcasts. Amid this information, for almost every event, you can find conspiracy theories.

Consider a recent example. Almost immediately after the death of Princess Diana in a tragic auto accident in Paris, conspiracy theories started spreading on the Internet. Arguing that "accidents don't just happen," most speculated that the car had been tampered with to cause the accident. Many blamed the royal family of England, claiming that certain elements were trying to get Diana for defying the monarchy. Others suspected the IRA, the CIA, or Islamic terrorists. Soon theories began spreading throughout the Middle East. These theories were endorsed by those who believed that Diana was killed by British agents because she was in love with an Arab man, Dodi Fayad. The believers of conspiracy theories can offer no proof for their claims, and French investigators have found no evidence of tampering with the car. British authorities denounce the theories as being "absurd."

The high-speed crash that killed Great Britain's Princess Diana gave rise to several conspiracy theories.

The Princess Diana death conspiracy theories have much in common with conspiracy theories in general. They often go something like this: An elite group working for its own narrow interest causes a disaster–the death of prominent person, the emergence of crack cocaine, even the loss of a war. The group holds great power and, by using it, can hide its guilt from the public, sometimes for decades. The group is often an agency of government, an organized crime syndicate, a shadowy political group, or an elite religious group. There is usually little or no real proof for the claim.

A LONG TRADITION

While many experts note the increase in conspiracy theories in recent years, they are nothing new in American history. In 1800, wild charges spread by his political enemies surfaced claiming that presidential candidate Thomas Jefferson was an agent of a shadowy group called the Illuminati and, as such, was planning to abolish religion in America.

There really was an organization known as the Illuminati, and its members practiced secret rituals. Founded in Germany in 1776 by Adam Weishaupt, a professor of religion, the group promoted a range of ideas inspired by philosophers during the Age of Reason. They advocated that all monarchies, established religion, private property, and even marriage should be abolished to bring about true equality and goodness.

In 1780, the Illuminati began to merge their ideas with those of another secret society, the Masons (also know as the Freemasons). Originally, Masons were members of the ancient craft of stone workers who formed guilds in the middle ages to train new members and protect their economic interests. By the 17th century, some of these guilds had become fraternal orders promoting the ideas of the Enlightenment. They soon spread throughout Europe and America. Benjamin Franklin and George Washington were Masons, but not Jefferson. And in spite of their influence on Freemasonry, the Illuminati group fell apart in 1785 due to internal conflicts and government pressure.

But the legend of the Illuminati had only begun. When the French Revolution began in 1789, some people saw it as the brainchild of the Illuminati. A former Illuminati leader had visited Paris shortly before the revolution broke out. This single fact fed the idea that the secret organization was still operating and scheming to overturn the established order.

In 1797, a Scottish professor of philosophy, John Robison, wrote a book titled *Proofs of a Conspiracy against All the Religions and Govern-*

ments of Europe, Carried on in Secret Meetings of Freemasons and Reading Societies. In it, Robison argued that the Illuminati existed, that their work was being carried out by Freemasons, and that they threatened the entire world. He also claimed that they were developing methods for dealing with enemies, including a spray that "blinds or kills when spurted in the face" and a poison gas for use with sleeping victims.

Although Robison's book failed to prove the power of the Illuminati, it did have tremendous influence, even in modern times. The John Birch Society, an ultra-conservative political group of the 1950s and 1960s republished Robison's theories. They saw in them a connection to the development of a world-wide communistic conspiracy, which reached deep into the agencies of the federal government.

In 1991, Pat Robertson, a conservative televangelist and one-time presidential candidate, wrote a book called, *The New World Order*. In it, he reached back to the Illuminati to develop his conspiracy theory that today, Wall Street and international bankers, along with key corporate and political leaders such as Jimmy Carter and George Bush, are using the United Nations to do away with Christianity and American freedom. Finding that, "The New Age religions, the beliefs of the Illuminati, and Illuminated Freemasonry all seem to move along parallel tracks with world communism and world finance," he argued that events such as the collapse of communism in Russia and the Gulf War were engineered to set the stage for one-world government.

After the bombing of the Murrah federal building in Oklahoma City in 1995, it came to light that numerous militia groups believed that elements of the American government were working with shadowy internationalist forces to disarm U.S. citizenry in preparation for the establishment of a one-world government.

REAL VERSUS IMAGINED CONSPIRACIES

In the real world, conspiracies do take place. According to criminal law, a conspiracy takes place when two or more people combine for the purpose of doing an unlawful act or a lawful act by unlawful means. Groups of criminals and terrorists do plot murders, bank robberies, airplane highjackings, bombings, and other crimes. People are charged, tried, and convicted of conspiracies on a regular basis. To win a conviction for criminal conspiracy, prosecutors must prove a case beyond a reasonable doubt by following strict rules of evidence. Those who promote conspiracy theories rarely prove anything.

A re-enactment of the assassination of President John F. Kennedy for Oliver Stone's controversial docudrama *JFK*.

The late historian Richard Hofstadter wrote that conspiracy theorists usually make a "leap in imagination" from a series of facts to the assumption that they all fit together to prove that some evil group is about to take over or was responsible for some disaster. It is like arguing that the Illuminati believed in equality (true); Jefferson believed in equality (true); therefore, Jefferson was part of an Illuminati conspiracy to rule the world.

Sometimes, conspiracy theorists don't even bother with facts. Instead, they propose a set of assumptions, treat the assumptions as facts, and then jump to conclusions. For example, some promoting the theory that Princess Diana was murdered claim that "accidents don't just happen," and therefore, the car must have been tampered with. In truth, of course, accidents do happen, and there is no evidence offered to show that tampering took place.

These jumps in logic often take the form of classic logical fallacies. A common one seen in conspiracy theories is *post hoc ergo propter hoc* (Latin for "after this therefore because of this"). This fallacy concludes that X caused Y simply because X happened before Y. For example, in the Illuminati conspiracy theory, much is made of the fact that, just before the outbreak of the French Revolution, one of its former leaders visited Paris. This has led some to conclude that the Illuminati orchestrated the revolution.

The downside to Internet emphasis in the classroom:
Lincoln, um, forced the South to secede when he, um, sent UN black helicopters to the grassy knoll at Bull Run before rendezvousing with, um, Hale-Bopp--?

Another fallacy common to conspiracy theories is the slippery slope. This argument predicts doom from a seemingly simple act. This act will lead to another, leading to another, which spells doom. For example, members of the militia movement argued that the government's attempt to register or ban certain kinds of firearms would lead to a defenseless America, which would then be ripe for takeover by a one-world government.

HOW TO SPOT A QUESTIONABLE CONSPIRACY THEORY

By far the most common flaw in conspiracy theories is the failure of those who hold them to offer sufficient proof. If someone makes a claim, he or she has the burden to prove it. The more serious or extraordinary the claim, the more proof is required. Instead of proof, conspiracy theorists often rely on the following techniques:

- There is some truth to the claim. As with most claims, even false ones, there are often some facts that support a conspiracy claim. For example, it is true that there had been a falling out between the royals of England and Princess Diana, but that does not mean that they arranged her death. Also, as Watergate and other scandals have proven, government is capable of conspiracy and cover-ups. This does not mean that the government is currently conspiring to turn over the country to the United Nations.
- Attack the established version of the facts. Lacking proof for their own conclusions, many conspiracy theorists focus their energies pointing out flaws in established conclusions. For example, many books on the assassination of President Kennedy cast doubt on the Warren Commission's conclusion that it was the work of a lone gunman without offering sufficient proof for their own claims.
- The proof has been lost or destroyed. To account for a lack of proof for the conspiracy theory, many resort to claiming a cover-up or the mysterious loss of evidence proving it. These assertions are rarely proved or ask us to imagine a cover-up that would involve dozens, sometimes hundreds of people or officials. As many examples in history demonstrate, it is not so easy to control events, people, or information.
- Making the cynical appeal. Many conspiracy theorists ask us to believe that the world is very corrupt and charge that those who are not convinced by their theories are just being naive. For them, the wealthy and powerful only want more wealth and power, and all government officials are corrupt or power hungry. In truth, many wealthy and powerful people have demonstrated concern for the common good and most government officials are honest and committed to doing a good job.

The biggest flaw of most conspiracy theories is that none of them ever seems to pan out. Jefferson did not abolish religion in the United States. After 200 years, the Illuminati have failed to achieve world government. The Communists never took over the United States from within. And Princess Diana remains the victim of a tragic accident.

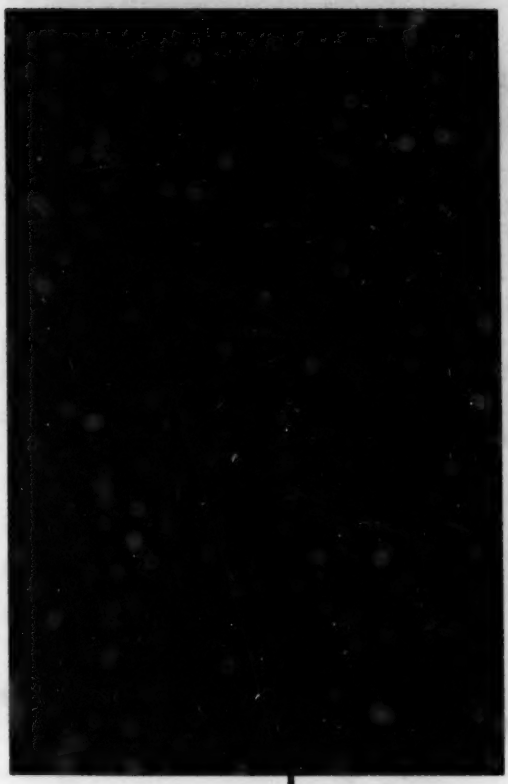
POINTS OF INQUIRY

1. Have you heard or read about any of the conspiracy theories mentioned in the article? If so, where? What was their source?
2. What are some other conspiracy theories? Describe them. What proof is offered in their support? Is it valid?
3. Why do you think people believe in conspiracy theories?

What's Going On Here?

- In July 1997, thousands of tourists descended on the small desert town of Roswell, New Mexico, to commemorate the 50th anniversary of the supposed crash of one or more flying saucers. According to believers, the U.S. Air Force recovered the wreckage of the alien craft and bodies of aliens and has been covering up the fact ever since.
- In March 1997, 39 members of a group called Heaven's Gate committed mass suicide in an attempt to reach another dimension of existence. Their actions may have been prompted by the belief that a spaceship, supposedly following the Hale-Bopp comet, was coming for them.
- For many years, people have been reporting on so-called "crop circles"—elaborate patterns and designs created by trampled grain stalks in fields, particularly in Great Britain. Believers claim that the patterns are created by alien spacecraft.
- Each year, hundreds of people report being abducted by aliens, often from their own homes. The victims claim that they are taken aboard spacecraft and medically examined by aliens.

If you watch television, cruise the Internet, or read magazines, newspapers, or books, you have probably been exposed to many paranormal tales. Paranormal claims are those outside the normal that cannot be explained by science. Magazine-style television programs such as "Sightings," "In Search Of," "The Other Side," "Strange Universe," and "The Extraordinary" offer dozens of supposedly true stories of UFO visitations, hauntings, extra-sensory powers, and odd creatures such as the Loch Ness monster and Bigfoot. The very popular "X-Files" television drama features the adventures of two FBI agents who investigate supernatural happenings each week. Cable networks offer viewers a range of psychic and astrological services on a pay-as-you-go basis. There are almost as many books in print on the subject of UFOs as on the Kennedy assassination. Hundreds of web sites cover paranormal subjects and speculations.



Crop circles, like this pattern discovered in a Utah wheat field, have spawned numerous stories about aliens and flying saucers.

Not only are these subjects popular, but many people believe that the stories are true. For example, a range of recent polls suggest that between 25 and 34 percent of Americans believe that intelligent beings from other worlds have visited Earth. Some 17 percent think that alien beings have abducted humans, leading some pollsters to conclude that 2 percent, or nearly 5 million Americans, claim to have had abduction experiences. Also, 25 percent of Americans believe in astrology.

Is the world really as strange a place as these television programs and polls would have us believe?

For many skeptics and scientists, the answer is no. They point out that few of these claims and beliefs are based on real facts or evidence. Many, they claim, are the product of human misperception. Some are out-and-out fakes.

THE NOT-SO MYSTERIOUS CROP CIRCLES

Sometime in the mid-1970s, people in the English countryside started noticing simple patterns pressed in fields of wheat. By the late 1980s and early '90s, the so-called crop circles had spread and become very elaborate. Some consisted of huge geometric shapes and intricate lines. Usually, the circles appeared during an hour or two in the middle of the night. Observers could never find footprints leading to or from the circles. Many believed that the fact that the circles were widespread and lacked footprints ruled out the possibility of a hoax.

Information-Age Checklist: Claims
F A L S E

No matter whether or not you enjoy urban legends, conspiracy theories, or paranormal tales, it is important to be able to test an extraordinary claim by asking the right questions about it. To be valid, a claim must pass all of the following FALSE tests. If it does not pass, it still could be true, but it is not proven.

Falsifiability. For a claim to be valid, it must be **possible** to prove it false. Consider the following claims that fail because they do not pass this test:

- **Our universe is nothing but a speck of dust on a policeman's uniform in another universe.** This claim fails because we cannot gather information from that universe to disprove the claim.
- **Pyramids create a positive energy that centers people's psychic powers**. What does centering a person's psychic power mean? This claim fails because it is so vague that it could never be disproved.
- **Aliens control our government and suppress all evidence of their activities through mind control**. This claim fails because, under these circumstances, no evidence disproving it could be gathered.

Alternative Explanations. If a paranormal or unusual claim is made, one should consider all normal alternative explanations before accepting it. For example, as with crop circles, before accepting that they are created by UFO's, all possibility that they were the product of human fakers should be considered.

Logic Claims must meet the basic requirements of logic. Here are a few examples of those that do not:

- **Ghosts are real because people have believed in them for thousands of years**. This claim fails because it offers no evidence for its conclusion. That people have believed in ghosts doesn't make them real.
- **Since the actress had arsenic in her blood, she must have been murdered**. If a claim is based on a premise, in this case, that the actress had poison in her system, the premise must be true for the conclusion to be true. Yet, many times the underlying premise of a claim is false or there are other possible conclusions following from the premise. In this example, the actress could have accidentally or intentionally swallowed poison.
- **If science cannot explain why the Great Sphinx of Egypt has evidence of water erosion, it shows that the monument is at least 10,000 years old—the last time flood waters reached that site**. Something which is unexplained does not make it miraculous or paranormal. Many supposed mysteries, such as firewalking and mind reading, have simple explanations; others are still unexplained, but may be some day by scientific means.

Sources. When testing a claim, it is important to consider the sources supporting the claim. Be very careful of the following sources.

- **Experts**: Expert opinion alone does not prove a claim. The fact that an expert, such as a professor or doctor, supports a claim does not make it so. Experts, like everybody else, can be mistaken. Also, expertise in one area, such as medicine or

(continued on page 65)

law, does not mean expertise in another. Finally, self-proclaimed experts may not possess the credentials they claim.

- **Eyewitness Accounts**: In spite of what many people think, eyewitness accounts can be very unreliable. Most people are not trained observers and often make mistakes about what they see. Fatigue, light conditions, alcohol or drugs, emotions, hallucinations, and false memories can affect eyewitness testimony.
- **Secondary Writers**: Many claims are contained in books or documentaries written by people who base their stories on other accounts. Secondary writers often make mistakes about basic facts. They may also embellish the facts to make a better story or may draw wild conclusions.
- **Advocates**: People making a claim can be motivated by self-interest and can lose objectivity. Those who spend a lot of time promoting a claim can ignore counter evidence or overstate the importance of the evidence they have.

Evidence. The most important thing in testing a claim is to test the evidence on which it is based. Those who make a claim have the burden to prove it, using enough evidence. A paranormal or unusual claim requires a high level of evidence. For example, if someone claims to have seen a black dog cross the road on the way to school, it is probably safe to take the person's word for it. However, if someone claims to have seen a Bigfoot cross the road on the way to school, a lot of additional proof is required.

Bold statements, opinions, and rumors are not evidence, and evidence can be manufactured. Photos and film can be doctored, people tell tall tales, and documents can be faked.

Finally, while it is important to keep an open mind, it is also important to ask tough questions.

Confronted by these baffling patterns, people started speculating about their cause. Some thought that they were produced by whirlwinds or other weather factors. But as the patterns got more complex, people started to believe that they had been created by intelligent beings who didn't leave footprints, in other words, aliens in flying saucers. Stories about the flying saucer-created crop circles appeared in books, in dozens of magazines, and on television. People staked out empty fields with cameras hoping to capture pictures of the craft at work. Each new crop circle brought a flurry of attention and speculation that the Earth was being visited on a regular basis by extraterrestrials.

Then, in 1991, two Englishmen, Doug Bower and Dave Chorley, announced that they had been creating hundreds of crop patterns for 15 years using simple tools such as metal bars and planks. They started the hoax with the idea of fooling people who believed in UFOs. For a while, no one noticed, but once the media started covering the crop circles, Bower and Chorley kept the stories going with more complex patterns and even messages written in the wheat. Soon copycats were making wheat circles and the media kept reporting on them. Finally, the original hoaxers tired of the activity and decided to tell the world what they had done.

But the stories did not end with Bower's and Chorley's confessions. Believers rejected the idea that all the circles were fake and clung to the idea that some had really been the product of alien visitors. Even today, stories of crop circles pop up in tabloids, on the Internet, and on television programs about the paranormal.

Rumors about a spacecraft hovering behind the Hale-Bopp comet may have contributed to the 1997 suicide of 39 members of a spiritual group.

THE HEAVEN'S GATE TRAGEDY

Sometimes wild stories or hoaxes can contribute to tragic results. In March 1997, 39 Heaven's Gate members lived in a mansion in San Diego, California. The group believed that they were in contact with a spiritual leader who was preparing them for a new existence in a different dimension. Some of the members listened to an all-night, national radio talk show. The show, "Coast to Coast AM" with host Art Bell, originates from a double trailer sitting in the middle of a Nevada desert and caters to those with weird stories to tell. Before the Heaven's Gate suicide, an amateur astronomer called to report that he had spotted a "Saturn-like" object following the famous Hale-Bopp comet. Then, a college professor, while a guest on the show, claimed that a team of three "remote viewers" (psychics) had focused on the object and found it to be an alien craft full of space people. He also claimed that a "top-10-university astronomy professor" had taken a photo of the craft and that radio signals were coming from the object.

Other astronomers soon identified the mysterious object as just an ordinary star and Art Bell himself exposed the picture of the craft as a fake. But it was too late. At least partly based on the original reports, the Heaven's Gate community apparently concluded that it was time to end their lives. On March 22, 1997, 39 people committed suicide.

WHAT'S GOING ON HERE?

Many scientists and skeptics worry that the public is too accepting of paranormal tales and that this has led to an erosion of faith in both science and government. For example, according to *Time* magazine, 80 percent of Americans believe that the government is covering up what it knows about UFOs.

Why do people believe in such strange things? There are no clear answers, but many theories: a lack of education, too much television and movies, alienation from traditional institutions, and anxiety caused by rapid economic and technological change in society. Dr. Michael Shermer, the director of the Skeptics Society, believes that people are looking for simple and quick solutions for the problems of a very complex world. For example, astrology offers guidance for millions unwilling to seek or unable to afford psychological counseling; lucky charms and magic offer good fortune and power. People hope, in spite of a lack of proof, that serious problems, which science has not been able to address, might be solved by psychic healers or visiting aliens from advanced civilizations.

Other experts blame the mass media. For example, they point to the number of shows on television devoted to the weird and the very few programs that deal with real science. They criticize the amount of shelf space in bookstores devoted to science subjects as compared to the space given occult and New Age publications. They claim that talk shows often promote paranormal subjects without giving effective equal time to skeptics willing to counter the claims.

Entertainment professionals respond that paranormal subjects are popular and lend themselves to drama and mystery and that is why they outnumber pure science offerings. In addition, they argue that most people just want to be entertained and can tell the difference between what is real and what is make-believe. Stories about ghosts and monsters have been popular for thousands of years, they argue, and they still are.

Still, some experts worry that many people are losing the capacity to evaluate outlandish claims and what might happen if the trend

continues. As the late Carl Sagan, an astronomer and science writer, stated, "when governments and societies lose the capacity for critical thinking, the results can be catastrophic."

POINTS OF INQUIRY

1. With which paranormal subjects are you familiar? Make a list.
2. Why are paranormal subjects so popular?
3. Do most people view paranormal subjects as truth or fiction? Why?
4. What are some possible dangers of many people believing in the paranormal?

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CHAPTER 5

NEW FRONTIERS

A Brave New World

In recent years, there has been an explosion of information. Cable television offers dozens of channels. Radio stations fill the airwaves. Computer-assisted publishing has spawned hundreds of boutique magazines and book publishers. Perhaps most significant in this information explosion is the development and growth of the Internet.

The Internet is an international network of interconnected computers. It got its start in 1969 as ARPANET, a military program designed to help military planners, universities, and defense manufacturers communicate more easily, even if part of the system was damaged in war. Using the idea of ARPANET, others created their own civilian computer networks that linked together. This led to the development of the Internet as we know it today.

Customers try out computers at Beijing's Internet Café.

The number of host computers and Internet users has grown at an extraordinary rate. The number of host computers that store information and relay communications on the Internet increased from about 300 in 1981 to nearly one million in 1997. It is estimated that currently some 40 million people use the Internet and that the number of users will reach 100 million by 1999.

The Internet offers users a variety of services, most notably e-mail and the World Wide Web. E-mail allows an individual to send an electronic message—similar to a letter or note—to another individual or group. Messages are routed through the Internet to a specific electronic address or mailbox. The World Wide Web offers users documents and information stored on computers throughout the Internet. A common feature of the World Wide Web is the web page, information sites created by individuals or groups, which contain documents and can even permit communication between users and the web page author.

The array of information and services on the Internet is truly amazing. Businesses advertise goods and services and methods for buying them. Political and religious groups offer information about their beliefs and opinions. Libraries and newspapers give researchers access to millions of pages of documents. Governmental agencies describe their organization, staffing, and new legislation. The Internet has become an international mall, massive research facility, and communications network all rolled into one.

With the growth and power of the Internet have come new concerns. Businesses worry about security of trade secrets and financial transactions with their customers. Authors are troubled that their work products—documents, software, songs—can be distributed around the Internet free-of-charge. Internet users and consumers have concerns about privacy. Other groups worry about the content available on the Internet—obscene material, child pornography, or hate literature—and fear that children may gain access to such material without parental supervision. Finally, media experts raise questions about the accuracy and quality of content offered by many Internet sites.

CENSORSHIP ON THE INTERNET

Many Internet pioneers promoted the idea that the system should be free of government interference or control, especially over content. In fact, even today, no one body regulates the Internet. It is not located in any one place or country. While 60 percent of its users are in the United States, millions are spread out around the world. In spite of this reality, the Internet is subject to regulation by every country in which it operates.

China and Singapore have aggressively regulated content on the Internet. In attempting to control citizen access to information, the Chi-

nese require Internet providers to use government-controlled phone lines and register with the police. Sites considered harmful–such as many foreign newspapers, human rights organizations and political groups–are blocked. Chinese web surfers are monitored by the police and offending materials are often screened out. In Singapore, Internet providers are controlled by the government's broadcasting authority and must follow its strict guidelines. All "objectionable" material is forbidden. This includes anything that might be harmful to "public morals, political stability, or religious harmony."

Protected by the First Amendment, web sites in the United States have enjoyed much greater freedom of expression. But what about content that is not protected by the First Amendment?

Because of the relative freedom on the Internet, numerous sites throughout the United States and in other countries have sprung up offering a variety of sexually explicit material. Concerned about children's access to this material, Congress passed the Communications Decency Act of 1996 (CDA). Two parts of the act prohibited the "knowing transmission of obscene or indecent messages to any recipient under 18 years of age" or the "knowing sending or displaying of patently offensive messages in a manner that is available to a person under 18 years of age." Violations of the statute could be punished by fine and two-year imprisonment.

Almost immediately after President Clinton signed the CDA, numerous plaintiffs filed two lawsuits claiming that the statute violated the Constitution. A federal district court judge agreed that the "indecent transmission" and "patently offensive display" parts of the act did violate the Constitution. In the second suit, a three-judge panel of the federal district court also agreed. In a case called *Reno v. American Civil Liberties Union*, the U.S. government appealed these rulings to the U.S. Supreme Court.

In June 1997, the Supreme Court issued its ruling. In the court's opinion, Justice John Paul Stevens first decided that the Internet deserved the highest level of First Amendment

Students protest the Communications Decency Act during Vice President Al Gore's 1996 visit to the University of Pennsylvania.

protection. Unlike radio and television, he reasoned, there is no tradition of government regulation on the Internet and the Internet user does not automatically receive messages or content. Therefore, the Internet is not subject to government regulation of content unless the regulations meet the highest constitutional standards.

The court then decided that the language of the indecent transmission and patently offensive display parts of the statute were too vague to give Internet providers sufficient guidance about what was illegal. They did not match previous definitions of obscenity as outlined in the court's *Miller* decision. This is particularly important, stated the court, because the CDA imposed criminal penalties.

Finally, the court ruled that the language in the CDA was overbroad. This means that it could forbid content that users, other than children, had a constitutional right to produce or receive. In effect, the regulation could

"chill" the constitutional rights of others. The court noted the availability of software that parents could use to screen sex-related material as an alternative to the harsh measures contained in CDA. The court let stand the portions of CDA that related to material on the Internet that is legally obscene.

Some Congressional supporters of the CDA vowed to write new laws to make sure that the transmission of obscene materials to minors is outlawed. Others seek laws that would require Internet service providers to make screening software available or establish rating systems of web sites. Critics of these approaches doubt their effectiveness or believe they would be very costly.

HATE SITES

In recent years, there has been growing concern about web sites promoting white supremacy and directing hate speech at minority groups. According to the Simon Weisenthal Center, an organization dedicated to countering anti-Semitism, the number of sites featuring hate content increased 300 percent between 1996 and 1997. A list on the "White Nationalist" web page, a site created by an ex-Ku Klux Klan member, contains 600 links to other hate-based sites.

The content on hate-based web sites covers a wide range. Some promote separation of the races; some even promote terrorism and provide instructions for weapons use and bomb making. Since political speech, even hate speech, is entitled to strong First Amendment protection, there is little chance that the government would pass laws to regulate it.

Groups concerned with hate-based web sites and their possible effect on the public, especially children, are exploring alternative ways to address the problem. Some favor public education about the sites and the groups that sponsor them. For example, the Weisenthal Center created a CD-Rom that lists and describes some 600 hate-group web sites. They hope the CD will be used by Internet service providers to identify the sites and remove them from the web. The Anti-Defamation League, another organization committed to confronting anti-Semitism, is working on the development of software that will help parents screen access to hate sites.

Some Internet service providers have guidelines that prohibit hate sites. But many claim that it is often difficult to monitor the content on all the web sites they service. In addition, many argue that it is not appropriate to deny web sites to groups who are merely exercising their constitutional rights to free expression. If service providers themselves become censors of the Internet, they argue, free speech for all users could suffer.

BOON OR BANE?

As the debates over decency and hate demonstrate, there is widespread disagreement about the content on the Internet. The Internet offers a tremendous amount of information to those with the technological skill and patience to retrieve it. For example, by typing the word "law" into a search engine, the user can expect hundreds of thousands of hits. Indeed, one can find hits for almost every subject, offering a rich array of information. But the question remains—how reliable is the information provided?

Some experts caution that the Internet is not a library. No selection committee reviews or catalogs the material on it. People create web sites promoting cults, conspiracies, and bizarre views. You can find web sites denying the Holocaust or favoring dangerous health practices, Others pass on information they have received with little or no critical judgment. There is no one to protect the user from inaccurate, out-of-date, or just silly information. At the same time, university and government sites offer the user deep access to historical and contemporary documents and images. A user can retrieve primary sources, review the progress of a bill as it becomes a law, and obtain the viewpoints of dozens of experts on almost any issue of public policy.

To take advantage of the Internet, a citizen must be prepared to think critically and evaluate the information provided. Just because something is on the World Wide Web does not make it true or objective. If the Internet is to achieve its promise of opening up a whole new age of information, it is only the user citizen who can make the dream a reality.

Information-Age Checklist: Internet

S E A R C H

To be an effective "netizen," it is important to evaluate the information you find on the Internet. Use this checklist to analyze the credibility and content of a web site.

Sources of the Information. Who sponsors the web site? Are they advocates of a particular position? What bias, if any, can you detect? Who created the document available at the web site? What are their qualifications? What bias, if any, can you detect?

Errors. Are there any obvious errors—dates, names, historical facts—in the web site materials?

Application. If the web site advocates a particular public policy, apply the evaluation questions on page 22. If the web site makes an extraordinary or paranormal claim, apply the FALSE questions on page 64.

Research. Check the material on the web site using at least two additional sources on the same subject (books, periodicals, or other web sites).

Comprehensiveness. Does the web site present more than one view or document on the subject or issue? If a controversial issue is presented, does the web site provide other points of view or counter arguments?

Hyperlinks. Does the web site provide links to other sites? What are their nature and quality? Do the links provided advocate the same view as that on the web site? How do they differ?

POINTS OF INQUIRY

1. Do you agree with the U.S. Supreme Court ruling in the *Reno* case? Why or why not?
2. Do you think that hate-based web sites should receive full First Amendment protection on the Internet? Why or why not?
3. Do you agree with the tactic of applying pressure against Internet service providers to remove indecent or hate-based sites from the World Wide Web? Why or why not?
4. What are the advantages of having a free flow of information on the Internet? What are some possible disadvantages?

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